

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 10-11-87

APPLICATION NO 1393 /86 (T)
W.P.No. 806/84

APPLICANT

Vs

RESPONDENTS

Shri M.S. Venugopal
To

The Vice-Chief of Army Staff,
GS Branch & another

1. Shri M.S. Venugopal
'Sadashiva Nivas'
41, Model House Street
Basavanagudi
Bangalore - 560 004
2. Shri S.K. Srinivasan
Advocate
35 (Above Hotel Swagath)
Ist Main, Gandhinagar
Bangalore - 560 009
3. The Vice Chief of Army Staff
General Staff Branch
MT 15(a), Army Headquarters
New Delhi

4. Shri V.N. Purohit
Master Gazetted
Military School
Chail, Simla Hills
Himachal Pradesh - 173218
5. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAN~~

~~ANEXXX ORDER~~ passed by this Tribunal in the above said application

on 26-10-87.

Encl: as above.

Yogi
Section Officer
(JUDICIAL)

folded

- BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 26th DAY OF OCTOBER, 1987

Present : Hon'ble Justice Sri K.S.Puttaswamy Vice-Chairman

Hon'ble Sri L.H.A.Rego

Member (A)

APPLICATION No. 1393/86

M.S.Venugopal,
Assistant Master,
Bangalore Military School,
and Residing in 'Sadasiva Nivas',
41, Model House Street, Basavanagudi,
Bangalore - 4.

Applicant

(Sri S.V.Srinivasan ... Advocate)

vs.

1. Union of India,
represented by the Vice-Chief of
Army Staff, General Staff Branch,
MT 15(a), Army Headquarters,
New Delhi.

2. V.N.Purushottam,
Master Gazetted,
Military School,
Chail, Simla Hills,
Himachal Pradesh,- 173218. ... Respondents

(Sri M.S.Padmarajaiah ... Advocate for Respondent-1.)

This application has come up before the Tribunal
today. Hon'ble Justice Sri K.S.Puttaswamy, Vice-Chairman
made the following :

C P D E R

This is a transferred application and is received
from the High Court of Karnataka U/s 29 of the Administrative
Tribunals Act, 1985.

2. In the country, there are five military schools
under the control and supervision of the Defence Ministry of
Government of India, and one of them is situated in the city
of Bangalore. The other four are situated at Chail, Ajmer,

Dholpur and Belgaum. The Principals and teachers of the schools are, however, civilian employees. As in other colleges and schools, there are various subjects/disciplines/faculties and we are concerned with the teachers appointed to the faculty of English only.

3. M.S.Venugopal, the applicant and V.N.Purohit, respondent No. 2 (R2) were appointed as Assistant Masters in English(AM) on temporary basis from 27.12.1971 and 17.8.1972 in the Bangalore and Ajmer schools respectively. But notwithstanding the same, they were appointed on regular basis in their respective schools from 24.10.1973 and 27.9.1973 respectively in the vacancies that occurred in those schools. On this basis, in the seniority list of AMs of Military Schools prepared as on 30.1.1982 (Annexure-B), the applicant and R2 have been assigned rank Nos. 4 and 3 respectively.

4. On 17.8.1982, a Departmental Promotion Committee (DPC) constituted for the purpose, considered the case of the applicant and R2 and another person, with whom we are not concerned, for the one vacant post of Master-Gazetted in English(MG) and recommended the promotion of R2 to the said post and accepting the same, the appointing authority had promoted R2 as MG.

5. On 2.4.1983, the applicant approached the High Court in W.P.No. 806 of 1984, challenging the seniority list and the promotion of R2 as MG, which on transfer, has been registered as A.No.1393/86(T).

6. The applicant has urged that the assignment of a higher rank to R2, appointed later than him, was illegal.

On this basis, the applicant has urged that the promotion of R2 to the post of MC, ignoring his superior claim, was illegal.

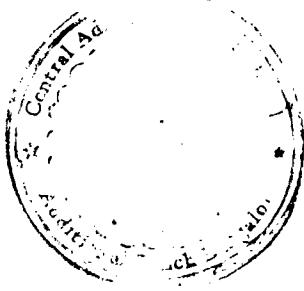
7. In its reply, respondent No.1(F1) had asserted that since the applicant was appointed on regular basis from a later date, or that R2 was so appointed earlier in a vacancy that arose earlier in the Ajmer School, R2 had been rightly ranked senior to him and the same was legal and valid. On promotion to the post of MC, F1 had urged that the case of the applicant and R2 was duly considered for promotion and that the latter who was found more meritorious than the applicant, had been rightly promoted to the said post.

8. R2, who has been duly served, but is absent, has filed a separate reply, by post, supporting F1.

9. Sri S.I.Srinivasan, learned counsel for the applicant, contends that the higher seniority assigned to R2, who had been appointed later than the applicant, was illegal and impermissible.

10. Sri M.S.Padmrajaiah, learned senior C.G.S.C., appearing for R1, contends that R2, though initially appointed later than the applicant, was appointed on a regular basis from 27.9.1973 or earlier than the applicant, in a vacancy that arose earlier in the Ajmer School and the seniority determined on that basis was legal.

11. All the five military schools in the country are under the control and supervision of the Defence Department of Government. The recruitment of Class III posts in all the military schools, with which we are concerned, is regulated by 'The Military Training Directorate (Class III and



Class IV Posts) Recruitment Rules, 1975'(the Rules).

12. The Rules made by the President under the proviso to Article 309 of the Constitution regulate the recruitment of all posts of AMs in all the 5 military schools. If anything, the Rules treat all the posts of AMs in all the 5 military schools as one unit only. The Rules do not recognise each military school as a separate and distinct unit, for purposes of recruitment. The fact that the schools are situated at different centres or places, does not mean that they are also separate and distinct for purposes of recruitment to all the posts of the schools. The Rules expressly and impliedly treat all military schools as one unit or one entity for purposes of recruitment.

13. When the Rules made by the President in exercise of the legislative powers conferred on him by the proviso to Article 309 of the Constitution treat all the military schools in the country for purposes of recruitment, as one unit, then it is not open to Government, the Department or the schools, to treat them differently, or treat each school as a separate and distinct unit, either for purpose of initial recruitment, or for other purposes also.

14. We have noticed in the foregoing, that the applicant was appointed earlier than R2. In normal circumstances, the person appointed earlier than another in the same cadre has to be treated as senior to the person appointed later in the same cadre. On this basis, the applicant should have been treated as senior to R2.

15. But it is urged by the respondents that R2 was appointed in a regular vacancy that arose earlier in the Ajmer school, and therefore, he is senior to the applicant.

In other words, Government/Department, as the case may be, had treated each school as a separate unit for purposes of recruitment.

16. We need hardly say that what had been done, was in derogation of the Rules, analysed earlier, and was clearly unauthorised and illegal. On what we have held earlier, the applicant who was appointed regularly, counting his regular appointment against a vacancy at the Bangalore school, should have been appointed and counted against the earlier vacancy that arose in the Ajmer school. We propose to do so, without unnecessarily remitting the matter to F1 at this distance of time.

17. On the foregoing, it follows that the applicant will be senior to R2. On this conclusion, all that is required to be done is only to direct the mutual exchange of ranks assigned to the applicant and F2 in the seniority list.

18. Sri Srinivasan, contends that the promotion of R2 and the supersession of the applicant on 17.8.1932 by the DPC and by the appointing authority, was illegal and unjustified, and calls for a re-examination on the finding recorded by us on the relative seniority of the applicant and R2.

19. Sri Padmarajaiah contends that the case of the applicant and F2 had been duly considered by the DPC and that R2 graded as 'very good' had been rightly promoted and there were no grounds to undo what had been done, even if the applicant was held to be senior to R2.

20. As on 17.8.1982, there was one vacancy of MG in English of the schools, which was and is a 'selection post', under the Principal (Group-A) and Master (Group-B), Military Schools Recruitment Rules of 1981.

21. When the post is a selection post, merit takes precedence over seniority. It is well-settled, that only when merit of two persons selected, is equal in all respects, the balance is tilted in favour of the senior and not otherwise.

22. In making selections to selection posts, a DPC is required to grade eligible officers as 'Outstanding', 'Very Good', 'Good' and 'Unfit', and that methodology had also been approved by the Supreme Court in R.S.DASS vs. UNION OF INDIA (AIR 1987 SC 593).

23. In conformity with the executive orders made by Government and the principles enunciated by the Supreme Court in DASS' case, it was open to the DPC to grade the eligible officers as 'Outstanding', 'Very Good', 'Good' and 'Unfit', and make a selection on the basis of those gradings. If that had been properly done, then our earlier finding on seniority, by itself, will not justify us to undo the selections.

24. Whether there has been a proper selection to the post of MG or not, is the primary question that calls for our examination. In order to decide this, it is necessary to read the proceedings of the DPC, held on 17.8.1982.

25. The proceedings of the DPC held on 17.8.1982, in so far as that relates to the selection of MG in English,



reads thus :-

"Master Gazetted in English :

3. The Committee considered the question of selection of an officer for officiating promotion to one post of Master Gazetted in English. Having examined the character rolls of the following eligible officers, the committee assessed them as indicated against each :-

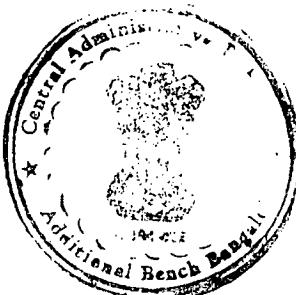
<u>S.No.</u>	<u>Name</u>	<u>Assessment.</u>
1.	Shri VN Purohit	Very good.
2.	Shri MS Vaghopal	Not outstanding.
3.	Shri AK Awasthi	

4. On the basis of the assessment, therefore, the committee recommended Shri VN Purohit, the senior most, for officiating promotion to the post of Master Gazetted in English."

In this proceeding, R2 has been graded as 'Very Good', and the applicant has been graded as 'Not Outstanding'. We will assume that the grading of R2 is correct.

27. On the grading of the applicant as 'Not Outstanding', while Sri Srinivasan contends that the same was below 'Outstanding' and was above 'Very good', Sri Padmarajaiah contends that the same was below 'Very Good', or 'Good' only, and was not above 'Very Good'.

28. The executive orders issued by Government require the DPCs to grade eligible officers as 'Outstanding', 'Very good', 'Good' and 'Unfit'. These gradings are a positive assessment and determinate of the performance of an officer. The executive orders and the principles enunciated in DASS' case, provide for positive and not negative grading, as done in the case of the applicant. On this score itself, we cannot uphold the grading of the applicant and therefore his supersession on this account.



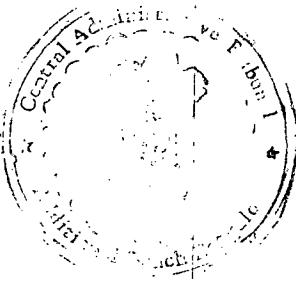
29. A negative grading, besides being really no grading, is incapable of precise import and formulation. When such a grading is made by a DPC, as in the present case it only opens the case for different constructions by the contestants, as has happened before us. We cannot obviously accept either of them, and can only ask the DPC to do its job properly. On this view, we decline to accept either of the two rival constructions placed on the grading of the applicant.

30. On our earlier finding, there is no other alternative for us than to quash the proceedings of the DPC and the promotion of R2 and direct a re-examination, in accordance with law, which will necessarily take some time. But till then, we consider it proper to permit R2 to work in the promoted post, without any right for selection on that ground.

31. Before making a fresh selection, it is open to Government to create a supernumerary post or make a fresh selection to the one post that existed as on 17.8.1982. As to which of them should be done, is a matter for Government to examine and decide.

32. When there is a fresh selection for only one post of MG, as on 17.8.1982, and if the applicant is selected to that post in preference to R2, then we consider it proper to direct R1 to extend to him only notional benefits from such date and the benefit of promotion from the date of actual promotion only.

33. In the light of our above discussion, we make the following orders and directions :



- 1) We declare that the applicant and R2 had been appointed on a regular basis as AMs in English in the vacancies which occurred in the Ajmer and Bangalore Schools from 27.9.1973 and 24.10.1973 respectively;
- 2) We declare that the applicant is senior to R2 in the cadre of AMs in English. We direct R1 to assign rank No.3 to the applicant and rank No.4 to R2, as against rank Nos. 3 and 4 assigned to them respectively in the seniority list drawn up as 03.1.1982;
- 3) We quash the promotion of R2 and the proceedings of the DPC which met on 17.8.1982 in so far as the same relate to selection to the post of MG in English only and direct R1 to re-determine the case of the applicant and R2 for promotion to the post of MG as on 17.8.1982 afresh with the assistance of a DPC and then make a fresh selection to the vacant post of MG in English only between them, in accordance with law and the observations made in this order, with all such expedition as is possible in the circumstances of the case, and in any event, within a period of four months from the date of receipt of this order. If in the fresh selection, the applicant is selected to the post of MG in English in preference to R2, then he should be given only notional promotion from the earlier date and the benefit of promotion from the date of actual promotion. But till then, R2 is permitted to hold the post of MG he is now holding, which fact however, shall not be taken into consideration when the DPC or Government makes a fresh selection to the post of MG in the light of this order.

34. Application is disposed of in the above terms.

But in the circumstances of the case, we direct the parties to bear their own costs.



an.

Sd/-
Vice-Chairman

26/10/87

Sd/-
Member (A)

26-10-87

- True COPY -

Shah
SECTION OFFICER (S)
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 30-11-87

APPLICATION NO 635

/87 (F)

W.P.No. _____

APPLICANT

Vs

RESPONDENTS

Shri P.P. Singh

To

The Controller, Controllerate of
Inspection Electronics & 3 Drs

1. Shri P.P. Singh
Junior Scientific Officer
TM Lab,
Controllerate of Inspection Electronics
(CIL)
J.C. Nagar
Bangalore - 560 006
2. The Controller
Controllerate of Inspection Electronics
(CIL)
J.C. Nagar
Bangalore - 560 006
3. The Director
DPIL
DHQ P.O.
New Delhi - 110 011
4. The Director General
Directorate General of Inspection (DGI Admin-6)
DHQ P.O.
New Delhi - 110 011
5. The Secretary
Ministry of Defence
Department of Defence Production
New Delhi - 110 011

6. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~SEARCH~~

~~SEARCH~~ ORDER passed by this Tribunal in the above said application
on 25-11-87.

RECEIVED 6 copies 1/12/87
Diary No. 1489/Ch/8

Received one copy 2/12/87 S. M. Singh

c/c
B1 one-6
Enc: as above.

Abdul JSV
(PPSINGH) dc

30/11/87

B.V. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 25 TH NOVEMBER, 1987

Present : Hon'ble Justice Shri K.S. Puttaswamy .. Vice-Chairman

Hon'ble Shri P. Srinivasan .. Member (A)

APPLICATION NO.635/87(F)

P.P. Singh, JSO,
TM Lab, CIL, J.C.Nager,
Bangalore - 560 006.

.. Applicant

v.

Controller,
Controllerate of Inspection,
Electronics, Bangalore.

Director, DPIL HQ, AHQ,
New Delhi - 11.

Director General Inspection,
Directorate General of Inspection,
AHQ, New Delhi - 11.

Secretary,
Defence Production,
AHQ, PO New Delhi-11.

.. Respondents

(Shri M.S. Padmarajaiah . Advocate)

This application came up for hearing before this Tribunal
on 20th November 1987. Hon'ble Shri P. Srinivasan, Member (A)
made the following:

O R D E R

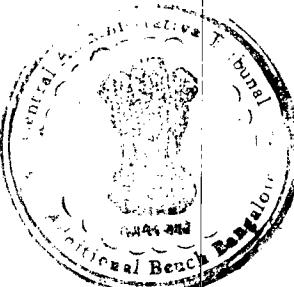
The applicant is working as a Junior Scientific Officer (JSO) in the Controllerate of Inspection Electronics (CIL), Bangalore, since 13.6.1974. The next promotion for a JSO is to the post of Senior Scientific Officer II (SSO II). Under the Defence Quality Assurance Service Rules 1979 (the Rules for short) promulgated in SRO 264 of 1979, a JSO with three years' service and the requisite educational qualifications is eligible for promotion to the post of SSO II. The promotion is to be made "on the basis of selection on merit". Among persons of equal merit, the senior would get promotion before



P.S. - 12

the junior. It is not disputed that the applicant has the requisite educational qualification for promotion to the grade of SSO II. A Departmental Promotion Committee (DPC) headed by a Member of the Union Public Service Commission (UPSC) met on 10.4.1981 to consider the cases of eligible JSOs for promotion to the post of SSO II. The applicant was in the zone of consideration on the basis of his seniority and length of service. However, the DPC passed over the applicant and recommended some of his juniors and these persons were duly promoted. At a subsequent meeting of the DPC held on 14.4.1986 also, a list of persons was recommended for promotion to vacancies of SSO II which arose between 1982 and 1984. This list again included persons junior to the applicant, but not the applicant and all those so recommended were duly promoted. Another meeting of the DPC held on 28.11.1986 for recommending promotions to vacancies which arose in 1986 also passed over the applicant and recommended some of his juniors for promotion who were also duly promoted in December 1986.

2. By this application, the applicant prays that his name be included in the panel published in December 1986 and that his promotion be made effective from 1981 when for the first time persons junior to him were promoted. Thus, in effect, the applicant is challenging promotions made to posts of SSO II in pursuance of the recommendations of the DPC made (i) on 10.4.1981 (ii) 14.4.1986 and (iii) 28.11.1986 in all of which he was passed over, though copies of the orders of promotion made on each of these occasions have not been annexed to the application.



3. So far as the recommendation of the DPC which met on 10.4.1981 and the consequent promotions made thereafter in 1981 are concerned, we are of the view that the cause of action having arisen more than three years prior to the establishment of this Tribunal, i.e., prior to 1.11.1982, this Tribunal has no jurisdiction to entertain the applicant's grievance. It is now well settled by a line of decisions of the Delhi, Bombay and Bangalore benches of this Tribunal, that no application can be entertained by this Tribunal in respect of a cause of action arising before 1.11.1982 and this view does not, therefore, require further elaboration. Therefore, we decline to entertain the applicant's grievance against the promotion of his juniors made in pursuance of the recommendations of the DPC which met on 10.4.1981 when he was not promoted.

4. This leaves for consideration promotions made in pursuance of the recommendations made by the DPC which met on 14.4.1986 and 28.11.1986 in both of which the applicant's name did not figure while his juniors were promoted. The applicant who argued his case in person personally submitted that while considering his case and the cases of others for promotion to posts of SSO II he had been given a low grading in spite of the good work done by him. Personal likes and dislikes had influenced the relative grading of the persons in the zone of consideration and in the process the applicant had suffered. His juniors whose names were recommended by the DPC on the two occasions had not turned out the same quantity and quality of output as the applicant and yet they had been given a higher grading and promoted while he had been passed over in spite of his seniority and good work.

P. J. - 49

5. Shri M.S. Padmajaiah appearing for the respondents strongly refuted the contentions of the applicant. Promotion from the post of JSO to that of SSO II was on the basis of selection on merit. Therefore, the seniority of a person in the grade of JSO did not automatically entitle him to promotion. If a person who was junior was given a higher grading by the DPC he would naturally be promoted in preference to a senior who was given a lower grading. A duly constituted DPC as provided for in the rules presided over by a Member of the UPSC had dispassionately examined the character rolls of the applicant and persons both senior and junior to him falling in the zone of consideration on both occasions and had graded them as "outstanding", "very good", "good", or "unfit" on the basis of their reports. Where persons junior to the applicant were recommended for promotion while leaving him out, it was because they were given a higher grading, having earned better reports, than the applicant. No Member of the DPC had any personal grudge against the applicant and the grading was made strictly in accordance with the reports obtained by the officers, including the applicant, falling in the zone of consideration. The personal assessment of the applicant of his own work that it was better than the work of others junior to him was neither here nor there because it was for his superiors to assess his work and to write his confidential reports on such assessment. In the process, the annual confidential reports earned by him were found by the DPC to be inferior to those of his juniors who were recommended for promotion. The applicant had merely alleged that personal likes and dislikes had been taken into account in giving gradings to the officers falling in the zone. Such a vague



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allegation without any material to support it cannot be entertained by this Tribunal.

6. We have considered the matter very carefully. We must make it clear at the outset that it is not for us to reassess the work of the applicant during the relevant years and to rewrite his character rolls for these years. We are neither competent to do so nor are we expected to do so. We may also mention that the applicant has not alleged any malafides or animus towards him on the part of his superior officers who wrote his character rolls, not to speak of material to support such an allegation. We have, therefore, to go by the reports as they stand. We would also be slow in interfering with the grading given to persons in the zone of consideration by the DPC, based on their confidential reports, unless the grading is shown to be patently inconsistent with those reports or it is established that any member of the DPC was prejudiced against or in favour of a particular person. As mentioned earlier, the applicant has not alleged any prejudice against him on the part of any member of the DPC which considered his case for promotion.

7. Having said so much, we proceed to deal in some detail with the proceedings of the DPC which met on 14.4.1986 to consider persons for promotion to vacancies of SSO II which arose in 1982, 1983 and 1984. One vacancy in the general category which arose in 1982 prior to the promulgation of SRO 36 had to be filled up. (We understand that as a result of SOR 36, the existing seniority of officials in the grade of JSO was not altered: we are/concerned with the contents of that SRO since it is not challenged in this application). Five persons were



in the zone of consideration and the applicant was at S No.4. The officer at S No.1 was graded "very good" and in respect of others appearing at S Nos. 2 to 5, the DPC recorded that none of them were found outstanding. The official at S No.1 was recommended for promotion and duly promoted. We must here clarify what was meant by the DPC when it recorded that none of the persons from S No.2 to 5 were found outstanding. The Department of Personnel issues instructions from time to time as to how a departmental promotion committee should go about its work. These instructions have been printed in Volume III (Appendices) of Choudri's Compilation of Civil Services Regulations at page 531 onwards in the 13th edition of the book brought out in 1986. The procedure to be adopted for drawing up panels of officials for posts to which promotion is to be made by selection i.e., on merit is set out in para VI at page 537 of the publication. In sub-para 1 of the said paragraph, it is stated that "each DPC should decide its own method and procedure for objective assessment of the suitability of the candidates". Sub-para 2 is of relevance for the present purpose. It is extracted below:

"VI.2. Selection Method. Where promotions are to be made by selection method as prescribed in the Recruitment Rules, the field of choice viz., the number of officers to be considered should ordinarily extend to 5 or 6 times the number of vacancies expected to be filled with in a year. The officers in the field of selection, excluding those considered unfit for promotion by the Departmental Promotion Committee, should be classified by the Departmental Promotion Committee as "outstanding", "very good", and "good" on the basis of their merit, as assessed by the DPC after examination of their respective records of service. In other



P. J. K.

words, it is entirely left to the DPC to make its own classification of the officers being considered by them for promotion to selection posts, irrespective of the grading that may be shown in the CRs. The panel should, thereafter, be drawn-up to the extent necessary by placing the names of the 'Outstanding Officers' first, followed by the officers categorised as 'Very Good' and (sic) followed by the officers belonging to any 'Very good' and followed by the officers categorised as 'good'. The inter-se-seniority of officers belonging to any one category would be the same as their seniority in the lower grade".

It will be seen from the above extract that officials in the field of selection have to be classified into four categories by the DPC viz., 'outstanding', 'very good', 'good' and 'unfit for promotion'. These are the only four categories into which classification has to be made and every officer has to be graded in one or the other of these four categories. Inter-se seniority of officers falling in one category would be arranged according to their seniority in the lower post from which they are to be promoted. If there are two vacancies to be filled at a time and the two seniormost officers in the zone of selection are graded as outstanding by the DPC it is not necessary to grade any more officials junior to them because even if all of them were to be graded as outstanding - the highest grading possible - the first two only would be recommended for promotion on the basis of their inter-se seniority in the lower post. If, again, two officials appearing at S No.1 and 2 of the zone of consideration in the in the order of seniority are graded by the DPC as "very good" only they would be recommended for promotion unless any of the remaining officials in the zone are fit to be graded as "outstanding". Stopping here, if a number of officials



P. S. B.

equal to the number of vacancies available are graded as 'very good', the DPC would have to record the specific grading given to persons junior to them in the zone of consideration only if such grading were outstanding for if none of them is outstanding, none would get into the panel for selection. It is in this context that the expression 'not found outstanding' is often used in DPC proceedings and the meaning of the term is that those covered by this description merited a grading of 'very good' or below and not of 'outstanding'. If a person is not outstanding he would fall only in one of the other specified categories viz., 'very good', 'good' and 'unfit' because, as explained earlier, no other grading in between these categories is permitted according to the instructions. In the light of this discussion the DPC which met on 14.4.1986 found that out of the officials falling in the zone of consideration for promotion in the sole vacancy arising in 1982 prior to promulgation of SRO 36 the seniormost official deserved grading as 'very good' and that the four following officials were not outstanding i.e., they deserved a grading of only 'very good' or below. That being so, the DPC recommended the seniormost official. The question of recommending the applicant who appeared at S No.4 did not arise.

8. One vacancy in the general category of SSO II and one in the SC category arose in 1982 after promulgation of SRO 36. For these two vacancies the DPC considered nine JSOs in the order of their seniority. In the refixation of seniority of JSOs in pursuance of SRO 36, the applicant did not come within the first nine and so, was not considered. It may here be mentioned that five to six times the general vacancy was constituted as the zone of consideration and in order to find a

T. S. - 14

candidate belonging to a SC for the vacancy reserved for ST, the zone of consideration was extended to No.9. Number 8 in the zone was a SC candidate and he was recommended for promotion even though graded only 'good' as the reservation policy had to be implemented.

9. Six vacancies in the general category and one reserved for SC arose in 1983. The DPC considered a zone of 24 officials for this purpose, the applicant appearing at S No.17. Officials at S No.2, 3, 7, 9, 11, 13 and 14 (seven in all) who were graded as 'very good' were recommended for promotion. Against the persons appearing at S No.14 to 24, including the applicant, the remark was "not found outstanding". For two vacancies which arose in 1984 eight officials were considered, the applicant appearing at No.7. Two persons graded as 'very good' appearing at S No.3 and 5 were recommended and those appearing below S No.5 were again classified as 'not outstanding', i.e., who deserved a grading of 'very good', 'good' or 'unfit'.

10. We now turn to the meeting of the DPC held on 28.11.1986. There were five vacancies in all which arose in 1986 which had to be filled up. The DPC examined the character rolls of 15 persons, the applicant appearing at S No.5. Three persons senior to the applicant and two junior to him who were all graded as 'very good' were recommended for promotion and the applicant who was given a grading of 'good' was left out.

11. In the light of the position set out above we cannot find fault with the recommendations of the DPC which met on 14.4.1986 as well as the one which met on 28.11.1986. *Where applicant was left out and his juniors promoted it was only because his grading was inferior to that of his juniors who were selected.*



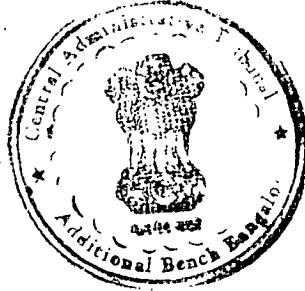
This being ~~not~~ the consequence of the selection method and the rules prescribing the selection method for promotion, we ^{can} find no legal infirmity in the decision of the DPC. We have also perused the confidential reports of the applicant and we find that the grading given to him by the DPC accords with these reports.

12. We must here refer to a decision of a Bench of this Tribunal rendered on 10.11.1987 in application No.1393/86 M.S. VENUGOPAL V. UNION OF INDIA. In that case the applicant, Venugopal complained that he had been passed over for promotion by his junior V.N. Purohit. The respondents had contended that Purohit was senior to Venugopal in the lower post and was, therefore, considered for promotion and promoted ahead of Venugopal. This Tribunal found that Venugopal was in fact senior to Purohit in the lower post and should accordingly have been considered for promotion ahead of Purohit. There were three officials in the zone of promotion put up before the DPC which recommended Purohit for promotion: Purohit was at S No.1 i.e., senior to the applicant who appeared at S No.2 and one more person at S No.3. The DPC graded Purohit as 'very good' and recorded against the names of the two others following him that they were "not outstanding". It was contended on behalf of the respondents that even if Venugopal was placed at S No.1 and Purbhit at S No.2 below him, promotion in that case being regulated by selection and not merely by seniority, Purohit being more meritorious would still have been promoted. It was in that context that this Tribunal examined whether Purohit had, in fact been given a higher grading than Venugopal, in which event Purohit's promotion could not be upset. In



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the course of its order, this Tribunal observed that Venugopal had been given a negative grading of "not outstanding" which could not be compared with positive grading of 'very good' given to Purohit. In the light of our discussion earlier 'not outstanding' means in the context of instructions of the Department of Personnel, either 'very good', 'good' or 'unfit' and Venugopal being "not outstanding" could fall in any one of these three categories. If he were to fall in the category of 'very good', the same as Purohit, he would have to be promoted because he was the senior of the two, and both having been placed in the same category. It became necessary, therefore, to specify the grading of Venugopal. That is why this Tribunal directed the DPC to give a positive grading to Venugopal and to reconsider the promotion already made in the light of such grading and the reversal of the selective seniority of Venugopal and Purohit in the lower post ordered by it. Here, as the earlier discussion will show persons admittedly senior - and whose seniority over the applicant in the lower post is not disputed - to the applicant were graded as 'very good' for the purpose of promotion to the vacancies which arose in 1982 prior to promulgation of SRO No.36, in 1983 and in 1984. By describing the applicant as 'not outstanding', the DPC meant that he would fall in any one of the three other categories viz., 'very good', 'good' or 'unfit' and in none of these categories would he qualify for promotion, since there were sufficient number of persons senior to him who had been graded as 'very good'. Thus there is a material difference between the facts in Venugopal's case and those in the instant case. Therefore, the decision in Venugopal's case is not applicable here.



1) Dr - V.

13. Before parting with this application we must mention that the applicant represented before us that he had worked in the organization for a number of years and had been passed over by his juniors several times and that his long experience had not fetched him any promotion after 1974. He was due to retire in 1988 and it was frustrating to him not to get any promotion even till that date. As we have explained earlier we cannot go behind what is written in the character rolls of the applicant or the grading made by the DPC. We have carefully perused the character rolls from 1975 onwards and we find nothing wrong with the grading accorded to the applicant by the DPC on each occasion. It is upto the respondents to consider whether, on humanitarian considerations and taking into account the long period for which the applicant would have stagnated in the same grade if he is not promoted before his retirement, any promotion can be given to the applicant before that date without in any way compromising highest standards of efficiency required of a scientific organisation connected with defence like CIL.

14. In the result, this application is dismissed. Parties to bear their own costs.



bsv

Sd/-
VICE CHAIRMAN
25/11/88

Sd/-
MEMBER (A) 25/11/88

-True copy-

B.V. Venkateswaran
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 19 APR 1988

REVIEW APPLICATION NO.
IN APPLICATION NO. 635/87(F)

1

/88

W.P. NO. _____

Applicant

Shri P.P. Singh

v/s

The Controller, CIL, Bangalore & 3 Ors

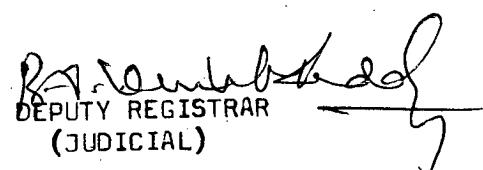
To

1. Shri P.P. Singh
Junior Scientific Officer
TM Lab
Controllerate of Inspection
Electronics (CIL)
JC Nagar
Bangalore - 560 006
2. The Controller
Controllerate of Inspection
Electronics (CIL)
JC Nagar
Bangalore - 560 006
3. The Director
DPIL
DHQ P.O.
New Delhi - 110 011

4. The Director General
Directorate General of Inspection(DGI
Admn-6)
DHQ P.O.
New Delhi - 110 011
5. The Secretary
Ministry of Defence
Department of Defence Production
New Delhi - 110 011
6. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER ~~AS soon as possible~~ / ~~AS soon as possible~~
passed by this Tribunal in the above said ^{Review} application on 7-4-88.


DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE SEVENTH DAY OF APRIL, 1988

Present: Hon'ble Shri Justice K.S. Puttaswamy ..Vice-Chairman
Hon'ble Shri P. Srinivasan .. Member (A)

REVIEW APPLICATION NO. 1 OF 1988

P.P. Singh, JSO,
TM Lab, CIL, J.C. Nagar,
Bangalore - 560 006

Applicant

(Party in Person)

Vs.

Controller,
Controllerate of Inspection,
Electronics, Bangalore.

Director, DPIL HQ, AHQ,
New Delhi -11.

Director General Inspection,
Directorate General of Inspection,
AHQ, New Delhi -11.

Secretary,
Defence Production,
AHQ, PO New Delhi-11.

Respondents

(Shri M.S. Padmarajaiah....Advocate)

This application has come up for hearing before
this Tribunal to-day, Hon'ble Shri P. Srinivasan, Member(A),
made the following :

O R D E R

By this Review Application, the applicant
in Application No.635 of 1987(F), wants us to review
our Order dated 25-11-1987 passed in the said application.

2. The applicant was present in person and
argued his Review Application. Shri M.S. Padmarajaiah,
learned Central Government Senior Standing Counsel
appeared for the respondents. They have been heard.

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3. What the applicant really wants in this application and reiterated before us in person is a reconsideration of the whole matter which was decided in our order on 25.11.1987 in Application No.635 of 1987. He wants us to direct the respondents to get his Confidential Reports for several years re-written. He contends, as he did in the original application that he had done excellent work for which he deserved better reports than what had been actually written of him.

4. Shri M.S. Padmarajaiah pointed out that a re-appraisal of our original order was not permissible in a review.

5. After careful consideration, we are satisfied that no case for review has been made out by the applicant. We cannot at this stage go over the entire ground already considered by us in our original order as if we are hearing an appeal. In view of this, the Review Application deserves to be dismissed. We therefore dismiss the application.

6. Parties to bear their own costs.

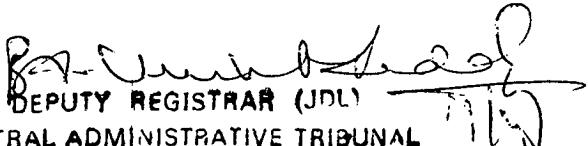
Sd/-

(K.S. PUTTASWAMY) 7/4/88
VICE-CHAIRMAN

Sd/-

(P. SRINIVASAN)
MEMBER (A)

TRUE COPY


DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE