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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 36/90

XXXXX XXXXXXXX XXXXXXXX XXX

DATE OF DECISION 3.8.93

Vidarbha Income Tax Employees Petitioner
Association through President
and 8 others.

Shri M.A. Mahalle, Advocate for the Petitioners

Versus

Union of India and others Respondent

Shri P.M. Pradhan Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri JUSTICE M.S. DESHPANDE, VICE CHAIRMAN

The Hon'ble Shri MS. USHA SAVARA, MEMBER (A).

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?


(M.S. DESHPANDE)
VICE CHAIRMAN

(P)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 36/90

Vidarbha Income Tax Employees
Association through President
and 8 others.

.... Applicants.

V/s.

Union of India through
The Secretary,
Ministry of Finance,
North Block,
New Delhi.

Chairman, Central Board
of Direct Taxes,
North Block,
New Delhi.

Chief Commissioner of
Income Tax, Pune.

Commissioner of
Income Tax,
Vidarbha Region,
Nagpur.

... Respondents.

CORAM: Hon'ble Shri Justice M.S. Deshpande, Vice Chairman
Hon'ble Ms. Usha Savara, Member (A).

Appearance:

Shri M.A. Mahalle, counsel
for the applicant.

Shri P.M. Pradhan, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 3.8.93

{ Per Shri M.S. Deshpande, Vice Chairman }

The applicant No.1 is an Association in
the Income Tax Employees Association and the applicant
No.2 to 9 are its members. Their grievance is that
under the reservation for SC and ST read with Appendix I,
the Respondent No.4 should have maintained the 40 pt.
roster, one indicating seniority of the employees
belonging to the Feeder cadre, those who are entitled to
be considered for the promotion to the post of Inspector
of Income Tax and 40 pt. roster of the candidates who
have passed the qualifying examination for the post of
Inspector of Income Tax. The commissionerate of Nagpur

was formed on 1.7.90 but maintenance of the roster was not undertaken until the order passed in 1985. Some of the applicants are working as Head Clerks, One as Superintendent, One as Tax Assistant and their dates of appointment in the Income Tax Department and feeder cadre Upper Division Clerk are as per annexure I to the application. The grievances of the applicants are that the roster as required had not been maintained and that the circular dated 22.11.70 was also not complied with. The consequence was that the promotions of the candidates belonging to the SC and ST were not made in the vacancies which had accrued in the turns in which the applicants would have entitled to be appointed. Until the promotions were to be made from the grade of Stenographer to the post of Income Tax Inspector with effect from 1.10.85 the authority had not maintained the separate rosters. The applicants therefore filed the present application for a direction that separate rosters as required to be maintained. The applicants also contend that certain errors had crepted in the list that the respondents have maintained and that has resulted in the deprival of the promotions to the applicants.

2. This position was denied by the respondents. According to them the 40 pt. roster as stated by the applicant ~~was duly amended and the promotions were amended~~ duly maintained and promotions were made simultaneously from the seniority quota and the year of passing quota, giving due reservation to SC and ST candidates as per single 40 pt. roster. It was urged that even if separate rosters were to have been maintained the number of vacancies would have been 35 on the basis of seniority and 34 on the basis of year of passing quota. However, on the basis of the single

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40 pt. roster 11 SC and 5 ST candidates would have obtained promotions as Inspectors, but in fact 13 SC and 4 ST candidates have been promoted upto 30.9.85. It was, however, stated that the Departmental Promotion Committee held on 1.4.70 and 30.9.85 had considered all the eligible SC and ST candidates and no eligible SC or ST candidates were rejected. The learned counsel for the respondents sought to produce a chart of appointment which came to be maintained by them but since it was produced at a very late stage ~~and~~ Mr. Mahalle urged that the same was supplied to him while he was in midst of the arguments. We found that the objections ~~was well~~ taken. However, in the written statement the respondents have stated the number of vacancies that had occurred. According to the roster already maintained, a larger number of candidates came to be promoted than as against the rosters which according to the applicant should have been maintained. Shri Mahalle urged that there was no answer to the errors referred to in the annexure I to the petition, but since in the OA there was no reference to the factual position sought to be urged by the applicant, it was not necessary for the respondents to elaborate on something which had not been even alleged in the body of the application.

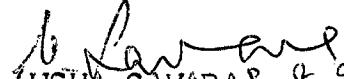
3. It is not necessary for us in the present case to issue any directions regarding the maintenance of the roster for the period upto 1984. All that we have to ascertain is whether on the basis of reservation any promotion was wrongfully denied to the applicants No. 2 to 9. In the written statement it is stated that on the basis of the roster already maintained, the applicants exceeded the representations

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which could have been granted to them, and the applicants have failed to demonstrate how the respondents omission to maintain the rosters separately could have improved their position.

4. We do not see any merit in the present application. In the result we dismiss the application.

5. There shall be no order as to costs.


(USHA SAVARA - 8.93)
MEMBER (A)


(M.S. DESHPANDE)
VICE CHAIRMAN

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