

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

(11)

O.A.762/90

Aftab Ahmed Khan,
Deputy Inspector General of Police,
Maharashtra Cadre,
Maharashtra State Police Headquarters,
Old Council Hall,
Shahid Bhagat Singh Road,
Bombay - 400 039.

.. Applicant

vs.

1. State of Maharashtra
through
Chief Secretary to the
Govt. of Maharashtra,
Mantralaya,
Bombay - 400 032.
2. Secretary,
Home Department,
Govt. of Maharashtra,
Mantralaya,
Bombay - 400 032.
3. Deleted
4. Secretary,
General Administrative
Department,
Govt. of Maharashtra,
Mantralaya,
Bombay - 400 032.
5. The Establishment Board for
Consideration of Promotions,
through
Chief Secretary,
Chairman of the Establishment Board,
Mantralaya,
Bombay - 400 032.
6. The Director General of Police,
State of Maharashtra,
Office at Maharashtra State
Police Headquarters,
Old Council Hall,
Shahid Bhagat Singh Road,
Bombay - 400 039.
7. Union of India
through
Secretary
Ministry of Home Affairs,
New Delhi.
8. Mr. Gainchand Verma,
Special Inspector General of Police,
Anti-Corruption Bureau,
161, Building, Ballard Estate,
Bombay - 400 038.
9. Mr. G.N. Ubale,
Commissioner (Intelligence)
Maharashtra State, Police Headquarters,
Old Council Hall, Shahid Bhagatsingh Road,
Bombay - 400 039. .. Respondents.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

(10)

O.A. NO: 762/90

199

T.A. NO: -----

DATE OF DECISION 12.11.91

Aftab Ahmed Khan

Petitioner

Mr. G. K. Masand

Advocate for the Petitioners

Versus

State of Maharashtra & Ors.

Respondent

Mr. A. I. Sethna

Advocate for the Respondent(s)
No. 1, 2, 4, 5 & 6

CORAM:

The Hon'ble Mr. Justice U.C. Srivastava, Vice-Chairman

The Hon'ble Mr. J. Y. Pralokar, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ? *no*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *no*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *no*

mbm*

Y
Pralokar
(J. Y. PRALOKAR)

Coram: Hon'ble Shri Justice U.C.Srivastava,
Vice-Chairman

Hon'ble Shri M.Y.Priolkar, Member(A)

Appearances:

1. Mr.G.K.Masand
Advocate for the
Applicant.
2. Mr.M.I.Sethna
Counsel for the
Respondents No.
1,2,4,5 & 6

JUDGMENT:

(Per M.Y .Priolkar, Member(A))

Date: 12-11-90

The applicant in this case is an officer of the Indian Police Service presently serving as Deputy Inspector General of Police in the Maharashtra cadre. He has the grievance that he has not been considered for promotion to the grade of Inspector General of Police whereas his immediate senior and even one of his juniors have been promoted to that grade by order dtd. 2-6-1990 bypassing the applicant. In reply to his representation dated 13-6-1990, the applicant was informed on 25-7-1990 that his supersession was due to the fact that he was not found fit for promotion on the basis of his annual confidential reports.

2. The relevant facts, which are not in dispute, may be briefly stated. In pursuance of the guidelines issued under letter dated 4-9-1989 of the Government of India, Ministry of Home Affairs, a Screening Committee was constituted by the Maharashtra Government for promotion, inter alia, to the post of Special Inspector General of Police. This screening Committee consisted of the Chief Secretary, Home Secretary and the Director General of Police. The committee in its meeting held on 8-5-1990 considered the eligible feeder cadre officers(i.e. cadre of Deputy Inspector General of

Police) and recommended 11 officers for promotion to the post of Special I.G.P but did not recommend ~~the~~ ^{Three of} other officers (including the applicant) for such promotion.

3. According to the respondents, this Screening Committee was the first such Screening Committee which met for making recommendations for the aforesaid promotion after the receipt of the guidelines dated 4-9-1989 of the Government of India. In these guidelines, the Government of India had intimated that the principle to be followed for such selection should ensure "merit with due regard to seniority" and further directed that stricter standards should be applied for such selection. Accordingly, the said Screening Committee is reported to have decided to recommend for the post of Special Inspector General of Police only such officers who were able to earn the remark "Very Good". It is also stated that on assessment of his entire record by the Screening Committee, the applicant was not found to have earned that specific grading, viz. very good, and therefore his name was not recommended. The Committee's recommendation was accepted by the Government.

4. Admittedly, prior to the present selection, officers earning "Positively good" remark i.e. B+, used to be recommended for the empanelment of Special Inspector General of Police. It was for the first time in pursuance of the revised guidelines dated 4-9-1989 issued by the Ministry of Home Affairs for imposition of stricture standards for such selections that the Screening Committee while recommending officers for promotion to the post of Special IGP in its

(14)

meeting held on 8th May, 1990 had decided to alter the earlier standard and empanelled ^{only} ~~and~~ officers earning the remark "Very Good" for promotion to the post of Special IGP. The applicant has assailed the Screening Committee's decision of not recommending him for promotion primarily on the ground that the Committee has depended entirely on the Government of India guidelines dated 4-9-1989 and the subsequent Maharashtra Government resolution dated 31-1-1990. The applicant contends that these guidelines cannot have retrospective effect and, therefore, they cannot be made applicable in his case. The learned counsel for the applicant argued that the very fact that the Maharashtra Government resolution dated 31-1-1990 prescribing the higher standard as the minimum requirement for promotion was required to be "brought to the attention of all the parties concerned and writers of the confidential reports and the reconsidering authority for their information and guidance" shows that the revised standard should have been enforced only after at least five years' annual confidential papers written after keeping in view the impugned guidelines were available for considering selection to such promotion posts. He argued that the selection committee's acting straightaway on the revised standard while the annual confidential reports considered by it were all written prior to circulation of these guidelines had caused serious prejudice to the applicant, as the reporting officers and the higher authorities while writing and reviewing the confidential reports would have proceeded on the basis of the earlier yard stick of a positively good report being adequate.

for promotion to the next higher grade. The learned counsel also alleged that the reasons for supersession of the applicant were not kept on record as required under these guidelines. It is also stated that Respondents Nos.8 & 9 namely the officers immediately senior and junior to the applicant, respectively, were during the relevant period confined to innocuous parts, where they were protected from the public gaze and political pressures unlike the applicant who was on a senior executive post controlling law and order problems in four districts. The confidential reports of the applicant during this period will, not, therefore be comparable to that of respondents Nos.8 and 9 and any such comparison made by the selection committee would be arbitrary and violative of Articles 14 and 16 of the Constitution.

5. We find it difficult to accept the above contentions raised on behalf of the applicant. Evidently, the annual confidential reports should be written so as to bring out objectively, as required, the manner in which the concerned officer has carried out his duties. In fact, the officers writing the confidential reports will be failing in their duty if they fill in the confidential report forms purely from the angle of the likely impact of their reports on the promotion prospects ^{of} ~~of~~ the officers reported upon. There was nothing wrong in the Screening Committee adopting the revised stricter yardstick for promotions when the guidelines dated 4-9-1989 of Ministry of Home Affairs specifically directed that stricter standards should be applied for such selections.

(16)

Once the Government had come to the conclusion that the existing standard was not adequate and stricter standards should be enforced, it will be unreasonable to suggest that the stricter standards should not be made applicabel for five years only because certain officers who could have been promoted earlier under the prevailing lower standard will not now be eligible for promotion under the higher standard. There is also no conflict, in our view, between the guidelines dated 4-9-1989 of the Ministry of Home Affairs of the Government of India and the Maharashtra Government resolution dtd. 31-1-1990, which only supplements the general guidelines of the Government of India by prescribing a specific stricter standard for such promotions. We do not also see any substance in the contention that the CRs of respondents Nos.8 and 9 are not comparable with those of the applicant as these respondents were employed during the periods under report on Headquarters or other posts which did not involve law and order problems or other duties of a sensitive nature whereas the applicant was holding charge of a very sensitive nature and was constantly exposed ^{to public gaze. #}. It will be difficult to us to make any comparative assessment of the sensitivities of the duties attached to various posts in the same pay scales in the same cadre merely on the basis of the averments of the interested parties. In any case, it is for the Selection Committees to decide in such cases if, at all, any weightage was to be given to the applicant on this account. The recommendation cannot be faulted for the reason that no such weightage was considered. There is also no merit in the applicant's contention that since no adverse remark had been communicated to the applicant

13

at any time, he should not have been overlooked for promotion. It is, however, clear that the applicant's supersession was not because of adverse remarks in his confidential reports but because, although these reports were good, he could not earn the specific required grading viz. very good, on assessment of his entire record by the Screening Committee, which recorded the reasons for his supersession in the minutes of the meeting.

6. The learned counsel for the applicant also brought to our notice a judgment of this Tribunal (New Bombay Bench) dated 26-11-1990 in the case of V.W.Pradhan v. State of Maharashtra and others (O.A.926/89) in which the State Government was directed to promote the applicant in that case to the post of Special I.G.P. from the date his immediate junior was promoted. That case is, however, easily distinguishable as the questions involved therein were whether it was possible to give different grading on the basis of the same record for the posts of DIG Level I and Special I.G.P without giving any reasons for doing so, and also the Tribunal had found that the Selection Committee had ignored the Tribunal's earlier direction in that case that it should consider whether the expunction of the adverse remarks for 1981-82 and 1983-84 would result in a substantial improvement in that applicant's previous grading of B(Good). Such questions did not arise in the present case and the judgment dated 26-11-1990 will not, therefore, be of any assistance to the applicant.

7. On the basis of the foregoing discussion,

we do not find any merit in this application,
which is accordingly dismissed, with no order
as to costs.



(M.Y. PRICKAR)
Member(A)



(U.C. SRIVASTAVA)
Vice-Chairman

MD