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CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A.No. 586/90

Date of Decision 29th MARCH 1996

Dr. Sharavan Govind Satdevo Petitioner

Advocate for the Petitioner.

Versus

U.O.I. & Ors. Respondent

Mr. R.K. Shetty Advocate for the Respondents.

Coram:

The Hon'ble Mr. B.S. Hegde, Member(J)

The Hon'ble Mr. M.R. Kolhatkar, Member(A)

1. To be referred to the Reporter or not?
2. Whether it needs to be circulated to other Benches of the Tribunal?


Member (J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, MUMBAI-1

O.A. No. 586/90

DATED THIS 29th DAY OF MARCH, 1996

Coram: Hon. Shri B.S. Hegde, Member (J)
Hon. Shri M.R. Kolhatkar, Member (A)

Dr. Shravan Govind Satdeve
Medical Officer I/C.
C.G.H.S. Dispensary No.1
Deccan Gymkhana
895, Shivajinagar
Pune 411004

..Applicant


V/s.

1. Union of India
through the Secretary
Ministry of Health & Family Welfare
Dept. of Health
Nirman Bhavan, New Delhi-1 & 2 ors. ..Respondents
(By Mr. R.K. Shetty, Counsel)

ORDER

(Per: B.S. Hegde, Member (J))

In this O.A. the applicant challenges the promotion of Respondent No.3 Dr. G. Barik, who is junior to the applicant in the Civil List of Medical Officers (Jr. Class I) of Central Health Service as on 1.1.1983. In the said Civil List the applicant's name appears at Sr.No. 254 whereas the Respondent No.3's name appears at Sr.No. 594. The Applicant joined the service on 1.9.73 whereas the Respondent No.3 joined the service on 23.2.77. Both the applicant and the Respondent No.3 belong to Scheduled Caste community.



The Respondent No.3 was promoted to the post of M.O. Gr.I with effect from 25.11.1982 whereas the applicant was promoted to the post of M.O.Gr.I only on 25.11.1982.

2. It is an admitted fact that as per the rules existing the next promotion from the post of GDO Grade I, by selection method through D.P.C., with a minimum 5 years experience as a GDO Grade II. The contention of the Applicant is that he was eligible to be considered in the year 1978 i.e., after 1.9.1978. However, under the existing rules persons who were eligible were considered subject to availability of vacancies. The contention of the applicant is that the Respondents did not fill up the vacancies as per rules though the Respondent No.3 joined service 4½ years later than the applicant he was promoted in November 1982. Thus the Respondent No.3 who is junior to the applicant was promoted on 25.11.1982. It is also an undisputed fact that the applicant was also promoted on 25.11.1982.

3. In this O.A. the applicant is seeking promotion from the year 1978. He had filed M.P. No. 931/90 for condonation of delay in filing this O.A. However, no order was passed by the Tribunal on the M.P. but it was observed that the M.P.No. 931/90 would be considered at the time of final hearing.

4. The respondents in their reply contended that the O.A. is not maintainable as it is barred

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by limitation. The respondents contended further that the applicant has no right to challenge the order of promotion of Respondent No.3, as both the applicant and Respondent No.3 were given promotion as CGDO Gr.I on 25.11.1982. Further, it is submitted that with effect from 22.5.90 medical officers with 4 years regular service are eligible for promotion to the post of Senior Medical Officer on the basis of seniority and merit without linkage to vacancies. Prior to this the requisite number of years of service for promotion was five years. Before 20.8.1987 promotion was subject to availability of vacancy with requisite number of years of service for consideration. Thereafter, due to time bound promotion, immediately after completion of 4 years, the persons with requisite experience have promoted to the GDO Gr.I. Since the applicant was promoted to the post of Senior Medical Officer with effect from 25.11.1982, he does not have any cause of action. Therefore, the question of supercession by his junior does not arise.

5. During the course of hearing Id. Counsel for respondents Mr. R K Shetty, furnished a copy of the letter passed by the Respondents dated 19.3.96 wherein it envisages in CHS promotions from the Grade of Medical Officer to the Grade of Sr. Medical Officer are made on non-selection basis. These promotions were earlier made subject to availability of vacancies with 5 years as eligibility on seniority-cum-fitness basis.

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However from 21.8.87 promotions of Medical Officers to the Grade of Sr. Medical Officers has been made on time-bound, without linkage to vacancies on the basis of seniority-cu-fitness. All officers eligible for promotion i.e., who have completed 5 years of regular service, reduced to 4 years with effect from 22.5.90, except those assessed as unfit, are promoted to the next higher grade. Since promotions are time-bound, 40 point Roster prescribed under relevant instructions issued by the Department of Personnel & Training regarding concessions to SC/ST in services is not necessary to be maintained as there is no occasion to reserve vacancies for any category i.e., SC/ST OR OBC as all eligible persons get promotion without any linkage to vacancies. This procedure has been concurred by the Department of Personnel.

6. As stated earlier the main grievance of the applicant is that the respondents have not maintained 40 point roster. However, in view of the clear instructions given by the Department which is concurred by the Department of Personnel, there is no need to maintain the roster because those who have completed 5/4 years service and found to be fit have been promoted to the higher post and in fact the applicant has also been promoted to the higher post on the same date as Respondent No.3, and there is delay in filing this O.A.

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7. In the result, the application cannot be sustained both on merits as well as on delay in filing this O.A. As the claim of the applicant having since been considered and he had since been promoted, no interference considered necessary. Accordingly both M.P. and O.A. are hereby dismissed, but no order as to costs.

M.R. Kolhatkar

(M.R. Kolhatkar)
Member (A)

B.S. Hegde

(B.S. Hegde)
Member (J)