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CAT/J/12

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~XXXX~~ BOMBAY BENCH

O.A. No. 780/91

~~XXXXXXX~~  
T.A. No.

198

DATE OF DECISION 8.9.1992

Shri R.R.Bandekar Petitioner

Shri G.K.Masand Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri A.I.Bhatkar for Shri M.I. Sethna Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. Justice S.K.Dhaon, Vice Chairman

The Hon'ble Mr. M.Y.Priolkar, 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 ?

ND

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY

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OA.NO. 780/91

Shri Rajanikant R.Bandekar

... Applicant

V/S.

Union of India & Ors.

... Respondents

Coram: Hon'ble Vice Chairman Shri Justice S.K.Dhaon  
Hon'ble Member (A) Shri M.Y.Priolkar

Appearance

Shri G.K.Masand  
Advocate  
for the Applicant

Shri A.I.Bhatkar  
for Shri M.I.Sethna  
Advocate  
for the Respondents

ORAL JUDGEMENT

Dated: 8.9.1992

(PER: S.K.Dhaon, Vice Chairman)

The prayer, in main, in this application is that the respondents may be directed to open the sealed cover and declare the result of the Departmental Promotion Committee.

2. A reply has been filed. Parties have been heard.

3. The material facts are these. On 21.4.1984 a Departmental Promotion Committee met to consider the applicant and others for being promoted on ad-hoc basis as Upper Division Clerks. The applicant was empanelled. However, before an order of appointment could be issued, the respondents received an information from the investigating committee that he (the applicant) was involved in a criminal case. On 13.7.1984 the applicant was arrested in connection with the criminal case. On 17.7.1984 he was suspended from service. On 18.4.1988 the order of suspension was revoked. On 31.12.1984 a chargesheet was <sup>submitted against</sup> ~~subjudicated~~ the applicant in a criminal court and criminal proceedings are still going on. Some time in the year 1986,

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a Departmental Promotion Committee met and considered the applicant for regular promotion. However, it found him unfit. In 1987 a fresh Departmental Promotion Committee met, however, it did not consider the case of the applicant.

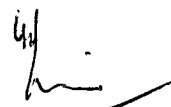
In the year 1988-89 the Departmental Promotion Committee considered the case of the applicant but put its recommendation in the sealed cover.

4. The first question which arises is as to why was the applicant not considered in the year 1987. No explanation is forthcoming. However, in view of the fact that even if we direct now that ~~he~~ may be considered for that year, the recommendation will have to be put in a sealed cover. We, therefore, direct that if the applicant is acquitted in the criminal proceedings, a fresh Departmental Promotion Committee shall <sup>meet</sup> ~~not~~ and consider the case of the applicant for the year 1987.

5. Learned counsel has urged that the guidelines as contained in the O.M. dated 12.1.1988, a true copy of which has been filed as Ex.'8' to this application have ~~not~~ been followed. Paragraph 6 of the guidelines has relevance so far as the applicant is concerned. In the reply filed it has been stated that the case of the applicant for being promoted on adhoc basis will be reviewed in consultation with the Central Bureau <sup>of</sup> Investigation. The applicant urges that grave injustice ~~has~~ been done to him as juniors to him have been promoted. It will be open to the applicant to make a representation to the authority concerned setting out the relevant facts therein. If a representation has already been made, no fresh representation need be made. The authority concerned shall pass necessary orders strictly in accordance with paragraph 6 of the O.M. aforementioned.

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6. The authority shall endeavour to review the case of the applicant in the light of paragraph 6 as expeditiously as possible but not beyond a period of six months from the date of presentation of a certified copy of this order by the applicant. With these directions the application is disposed of finally but without any order as to costs.

  
(M.Y. PRIOLKAR)  
MEMBER (A)

  
(S.K. DHAON)  
VICE CHAIRMAN