

(11) (10)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No. 196 OF 1991

~~XXXXXXXXXXXXXXXXXXXXXXX~~  
~~Transfer Application No.~~

Date of Decision : 27.6.95

Lakshmikant B. Kapadia,

Petitioner

Shri I. J. Naik,

Advocate for the  
Petitioners

Versus

Union Of India & Others,

Respondents

Shri Joseph Mendenza, Statistical Assistant  
from the office of the Respondents.


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C C R A M :

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

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

- J II
- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?

  
(B. S. HEGDE)  
MEMBER (J).

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(12)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

ORIGINAL APPLICATION NO.: 196 OF 1991.

Lakshmikant B. Kapadia ... Applicant  
Versus  
Union Of India & Others ... Respondents.

CORAM :

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

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

APPEARANCE :

1. Shri I.J. Naik,  
Counsel for the applicant.
2. Shri Joseph Mendenza, Statistical Assistant  
from the office of the Respondents.

JUDGEMENT :

DATED : 27.6.95

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

1. The applicant has filed this application challenging the promotion order of the Respondent Nos. 4 to 7 seeking promotion to the post of Statistical Assistant with retrospective effect from the date the U.D.C.s of other departments have been given promotions to the post of Statistical Assistant.
2. Heard the Learned Counsel for the parties and perused the documents. The applicant has been appointed as an Investigator in the year 1982 and continued in the same capacity for a period of 8 years. As per the Recruitment Rules, for the post of Statistical Assistant which is by selection, Investigator with 3 years regular service in the grade and U.D.C. with 5 years

regular service in the grade are eligible to be considered for the post of Statistical Assistant.

3. The Respondents in their reply conceded that the appointment of the Respondent Nos. 4 to 7 are purely on adhoc basis and that the Respondent No. 1 has erroneously and in breach of the relevant Recruitment Rules passed the order of promotion of respondent no. 4 to 7 and failed to consider the case of the applicant who was entitled for promotion to the post of Statistical Assistant as per the Recruitment Rules. Accordingly, on coming to know of the irregularities, the Respondents vide their order dated 16.11.1993 reverted the Respondent No. 4 to 7 and thereafter promoted the applicant to the post of "Statistical Assistant" on 14.12.1993. It is an undisputed fact that the common cadre of U.D.Cs. constituted by the Administration vide its Order dated 31.05.1989, thereby, both U.D.C.s as well as Investigators are eligible to be considered for promotion to the post of Statistical Assistant. After reverting the Respondent Nos. 4 to 7, the Respondents vide their letter dated 14.12.1993 promoted the applicant to the post of Statistical Assistant. Nevertheless, the prayer made in the application is that he should have promoted to the post of Statistical Assistant from the date his juniors have been promoted and posted, which order has been nullified by the Respondents vide its order dated 16.11.93 as stated earlier. It is a well known principle that promotion is not a matter of right. Of course, he ought to have been considered at the relevant time but the

mistake committed by the Respondents has been rectified by reverting the Respondent No. 4 to 7, that being the case, it is not open to the applicant to claim that he should have been promoted from the date his juniors have been promoted, which is found to be erroneous. Since the applicant has already been promoted to the post of Statistical Assistant, the question of seeking retrospective promotion does not arise. In the circumstances, we do not find any merit in the O.A. and the same is dismissed. No order as to costs.

*M. R. Kolhatkar*  
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(M. R. KOLHATKAR)  
MEMBER (A).

*B. S. Hegde*  
(B. S. HEGDE)  
MEMBER (J).

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