

(8)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
(CAMP: NAGPUR)

Original Application No: 590/91

Transfer Application No:

DATE OF DECISION: 25/4/95

Shri G.S.Khanorkar

Petitioner

Shri V.R.Taskar

Advocate for the Petitioners

Versus

The Inspector General cum Chief Security Commissioner Respondent
& The General Manager, Central Rly, Bombay.

Shri P.S.Lambat

Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M.S.Deshpande, Vice Chairman.

•The Hon'ble Shri P.P.Srivastava, Member(A).

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


(M.S.DESHPANDE)
VICE CHAIRMAN

(9)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH CAMP AT NAGPUR.

ORIGINAL APPLICATION NO:590/91.

G.S.Khanorkar

... Applicant

V/s.

1. The Inspector General cum
Chief Security Commissioner,
RPF-C.Rly., Bombay V.T.

2. The General Manager,
Central Railway,
Bombay V.T.

... Respondents.

CORAM: Hon'ble Shri Justice M.S.Deshpande, Vice Chairman.

Hon'ble Shri P.P.Srivastava, Member(A).

APPEARANCES:

Shri V.R.Taskar, Counsel
for Applicant.

Shri P.S.Lambat, Counsel
for Respondents.

ORAL JUDGEMENT:

DATED: 25/4/95.

I Per Shri M.S.Deshpande, Vice Chairman. I

The cost of Rs.200/- paid by the respondents
to Shri Taskar, Counsel for Applicant.

By this application, the applicant seeks a direction that he should be promoted with retrospective effect from 31/10/89 in the grade 2000-3200 and that seniority should be assigned to him in that grade from 31/10/89.

2. The applicant was working in the grade 1600-2660 in the Office of the Divisional Security Commissioner, RPF, Nagpur. The first vacancy in the grade of 2000-3200 occurred on 31/10/89 and the second vacancy occurred on 31/12/89. One Shri Ahmed who was junior to the applicant was offered promotion against the first vacancy on 31/10/89. The applicant who belongs to Scheduled Tribe Community was not considered on caste points. and he appealed to the Inspector General & Chief Security Commissioner Bombay on 27/12/90 but

there was no response to the representation or to the later reminders. He has therefore approached the Tribunal for the above relief.

The Respondents contention is that the applicant was considered and was not found fit by the authority who was competent to decide the Applicant's claim ~~for promotion~~.

The Learned Counsel for Applicant urged that an appropriate DPC was not constituted while considering the question of promotion and that the DPC should have been comprised of three persons. When we asked the Learned Counsel for Applicant to point out the rule on which this submission was ~~based~~ passed, the Learned Counsel was not in a position to produce the rule about the composition of the DPC.

The Respondents produced the material showing how the assessment was made. It appears from the material before us that the Annual Reports of the Applicant as well as one Shri Ahmed ~~for~~ 5 years were called and were placed before the Chief Security Commissioner. After appraising the Annual Confidential Reports, the Chief Security Commissioner took the view that the applicant was not fit to be promoted at that time whereas the next man Shri Ahmed was found to be fit. Since 5 years annual confidential reports were considered, we find no merit in the contention raised on behalf of the Applicant that the record for the prescribed number of years has not been considered. Reliance was placed on the guidelines for promotion on para-6.2.1 in Swamy's Manual on Establishment and Administration at page-644 where the requirement is that the DPC should consider the Confidential Reports for 5 preceding years. It is also apparent that this should be done by an authority

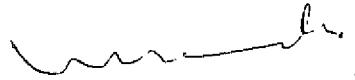
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who is competent to fill the post and there is no dispute about position, in the absence of rules to the contrary, that the Chief Security Officer was the personnel who should have and infact has considered the Annual Confidential Reports for 5 preceeding years. It is true that there ~~should~~ ^{should} ~~could~~ not be any assessment on comparitive merit if the promotion is to be based on seniority cum fitness but the Chief Security Commissioner has not assessed the comparitive merits but only ascertained fitness of the Applicant for promotion and after saying that he was not fit, considered the case of Shri Ahmed.

We see no vice in the procedure adopted by the Chief Security Commissioner ~~but having continued to this practice.~~

We see no merit in the Applicant's contention that he was superceded illegally, infact he has been promoted w.e.f. 25/1/90 and on the basis of the record we find that we are unable to grant any relief to the Applicant. The OA is therefore dismissed. No order as to costs.


(P.P. SRIVASTAVA)
MEMBER (A)


(M.S. DESHPANDE)
VICE CHAIRMAN

abp.