

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No. 54/93  
Transfer Application No.

Date of Decision : 26/7/95

Shri N.N.Nathani

Petitioner

Shri S.P.Kulkarni

Advocate for the  
Petitioners

Versus

Union of India & Ors.

Respondents

Shri M.I.Sethna

Advocate for the  
respondents

C O R A M :

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 ?

(2) Whether it needs to be circulated to  
other Benches of the Tribunal?

  
(P.P.SRIVASTAVA)  
MEMBER (A)

  
(M.S.DESHPANDE)  
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY

OA.NO. 54/93

Shri Nanakram N. Nathani ... Applicant

V/S.

Union of India & Ors. ... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande  
Hon'ble Member (A) Shri P.P.Srivastava

Appearance

Shri S.P.Kulkarni  
Advocate  
for the Applicant

Shri M.I.Sethna  
Advocate  
for the Respondents

JUDGEMENT

(PER: P.P.Srivastava, Member (A))

Dated: 26/7/95

The applicant through this OA. has sought promotion to the post of Chief Administrative Officer from 25/22.9.1990 when vacancies were available but not filled and has also sought to fix his pay on promotion and pay arrears as well as to refix his pension.

2. The applicant was working in the Central Excise and Customs Department and was promoted as Administrative Officer in 1981 which is a Group 'B' post. The respondents conducted a selection and formed a panel for the post of C.A.O. Group 'A' on 25.1.1990 in which the applicant's name had not figured. The applicant represented against his non-inclusion of name in the panel and the representation was rejected stating that he could not find place in the select panel as the gradation assigned to him was "Good" and some officers junior to him found place in the panel due to better gradation. The applicant therefore did not

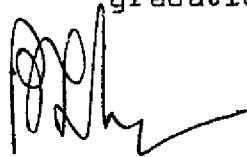
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(A)

pursue the matter any further as he was superseded on merit. However, the respondents formed a further panel vide order dated 25.5.1990 in which seven officers were selected for promotion to C.A.O. Group 'A'. The applicant's name did not figure in this panel also. The applicant submits that respondents had not properly computed the panel and the applicant did not find place in the selected panel.

3. The next point brought out by the applicant is that some officers had refused promotion and therefore should have been debared for one year and all the vacancies which would have occurred should have gone to the persons on the panel lower down. In the second selection held for the year 1990 ~~was for filling in~~ ~~vacancies~~ due to refusal of promotion by some persons on the panel. The vacancies which had occurred in the cadre upto the date of holding the second selection were not taken into account. The applicant's case is that all the vacancies which were available at the time of supplementary selection which was held in the year 1990 should have gone to the ~~persons~~ on panel and in that case ~~been~~ the applicant could have ~~been~~ promoted. But the respondents had offered the vacancies again to those who had refused promotion in the first instance and thereby deprived the applicant of his legitimate promotion against the vacancies which had occurred at the time of second supplementary selection.

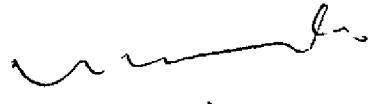
4. The respondents have brought out in their reply that the post of Chief Accounts Officer is a Group 'A' post and is filled by selection. The respondents have brought out that the applicant could not find place in the select panel which was held on 6.12.1989 due to his gradation while some officers junior to him found better



gradation. The respondents have further brought out that the supplementary DPC was held on 6.8.1990 because 6 officers refused promotion and one vacancy occurred due to voluntary retirement. The DPC was also requested to prepare an extended panel so that the same can be used in case some more officers who were selected also refused promotion. Respondents have brought out that the DPC recommended a panel of 17 officers for promotion and the name of the applicant figured at Sl.No. 15 in the panel. The respondents have further brought out that the DPC had recommended that the officers at Sl.No. 1 to 6 be promoted only after the period of debarment for promotion ~~was~~ over. The DPC further recommended that officers at Sl.No. 8 to 14 to be promoted in place of the officers at Sl.No. 1 to 6 and Sl.No. 14 to 17 to be promoted only if any of the officers at Sl.No. 8 to 14 are not available for promotion. The respondents have mentioned that before the extended panel upto Sl.No.15 at which the applicant's name figured could be implemented, the applicant retired on superannuation on 31.12.1990. The respondents have further brought out that the applicant could not be promoted before his superannuation due to the fact that none of the officers who were given promotion in the extended panel refused promotion by the date of his retirement.

5. After considering the arguments of both the counsel as well as perusal of record, we are of the opinion that since no body junior to the applicant on the panel was promoted before considering his case, the respondents have not violated any rules which would warrant interference by the Tribunal. In these circumstances, we are of the view that there is no merit in the OA. and the same is dismissed with no order as to costs.

  
(P.P.SRIVASTAVA)  
MEMBER (A)

  
(M.S.DESHPANDE)  
VICE CHAIRMAN