

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 685 OF 1994.

Date of Decision: July 21, 1999.

Shri V. G. Wasnik, Applicant.

Shri P. N. Mahajan, Advocate for  
Applicant.

Versus

Union Of India & Others, Respondent(s)

Shri A. L. Kasturey, Advocate for  
Respondent(s)

CORAM:

Hon'ble Shri. Justice R. G. Vaidyanatha, Vice-Chairman.

Hon'ble Shri. B. N. Bahadur, Member (A).

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

*R. G. Vaidyanatha*  
(R. G. VAIDYANATHA)  
VICE-CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 685 OF 1994.

Dated this Wednesday, the 21st day of July, 1999.

CORAM : Hon'ble Shri Justice R. G. Vaidyanatha, Vice-Chairman.

Hon'ble Shri B. N. Bahadur, Member (A),

V. G. Wasnik,  
Signal Inspector (Technical)  
Grade-II, O/o. Chief Signal &  
Telecommunication Engineer  
(Construction) H.Q. Office,  
Western Railway, Churchgate, ... Applicants.  
Bombay.

(By Advocate Shri P. N. Mahajan).

VERSUS.

1. Union Of India through  
The General Manager,  
Western Railway,  
H.Q. Office, Churchgate,  
Bombay - 400 020.
2. The Chief Signal & Telecommunication  
Engineer (Construction)  
New Administrative Building,  
5th Floor, Western Railway,  
Churchgate, Bombay.
3. Divisional Railway Manager,  
Western Railway, Bombay Central ... Respondents.  
Bombay - 400 008.

(By Advocate Shri A. L. Kasturey)

O R D E R (ORAL)

PER : Shri R. G. Vaidyanatha, Vice-Chairman.

In this application the applicant is challenging his non-promotion to the post of Signal Inspector (Technical) Grade-II. The respondents have filed reply opposing the application. We have heard the Learned Counsel appearing on both sides.

...2.



2. The applicant has been working as Signal Inspector (Technical) Grade-II in the H.Q. Office, Western Railway Churchgate, Bombay. His grievance is that he was not selected for promotion to Grade-I inspite of his having 'Very Good' record of service. It appears, there are two modes of promotion to Grade-I. One is by regular promotion on the basis of written test and viva-voce. The other is, promotion to upgraded or restructured post on the basis of the official's service records. It appears, on some occasion adhoc promotions are also done. The applicant's grievance is that he has not been considered either for adhoc promotion or regular promotion or promotion to restructured post. His main grievance is that his junior Mr. Jafar Beg Mirza, has been selected and promoted though the applicant is senior to him.

3. The respondents have filed reply opposing the application and justifying the non selection of the applicant for promotion on merits. We have considered the grounds given by the respondents at the appropriate stage.

4. As far as the first mode of promotion, namely - regular promotion is concerned, which is prayer (a) in the O.A., the Learned Counsel for the applicant fairly submitted that he is not pressing that prayer. Even otherwise, we may note that the applicant had appeared in the selection process and passed in the written test but failed in the viva-voce and that is why he could not be promoted regularly.

4. As far as prayer (b) is concerned, the applicant's case is that applicant should have been considered for adhoc promotion but his junior has been promoted. Applicant's counsel placed reliance on the adhoc promotion order dated 06.08.1992 which is at page 15 of the paper book. He brought to our notice that Jafar Beg Mirza is at sl. no. 2 and he has been promoted on adhoc basis by ignoring the applicant who is senior to Jafar B. Mirza. But the respondents have stated in their reply that these adhoc promotions are done at the local level, namely - division level and not on the basis of zonal seniority. He has pointed out that Jafar Beg Mirza was working in Bombay Division and he was given adhoc promotion on the basis of local seniority in that particular division. At that time the applicant was working in the Head Office at Churchgate and therefore he has not been considered. If the adhoc promotion is done on the basis of seniority at the division level, the applicant's grievance that he being senior has been ignored cannot hold any water. Therefore, the applicant's ground on this point has no merit.

5. Next coming to the promotion to the upgraded or restructured post, the impugned order is dated 31.08.1993 and it is at pages 17. It is also admitted that the post in question is a selection post. The order at page 17 says that the promotion is made on the basis of seniority-cum-suitability, suitability being judged from preceeding confidential reports. In this order



the name of Mr. Jafar Beg Mirza is at sl. no. 19. Though he had earlier got adhoc promotion, he has to be again considered for regular promotion. Here also the applicant's grievance is that his junior has been considered and promoted in the restructured post ignoring his claim, who is senior to Jafar Beg Mirza.

The Learned Counsel for the respondents placed before us the D.P.C. proceedings. We have perused the original records and find that number of officials were considered by the D.P.C. including the applicant and Jafar Beg Mirza and others. The D.P.C has <sup>adopted</sup> ~~evaluated~~ its own method. It has taken into consideration the C.Rs. of three years and has given grading like 'Good', 'Very Good', 'Average', 'Below Average', etc. After giving its own grading, the D.P.C. has taken the average of the three years grading and then selected the best candidate. As far as the applicant is concerned, who is at sl. no. 18, he has been given grading 'Average' for all the three years - 1989-90, 1990-91 and 1991-92. As far as Jafar Beg Mirza is concerned, he is at sl. no. 26 and he has got grading of 'Very Good' for 1989-90, grading of 'Good' for 1990-91 and grading of 'Below Average' for 1991-92. On the basis of average of the three years grading, Jafar Beg Mirza has been preferred to the applicant. The D.P.C. has adopted its own method as to how to evaluate the C.Rs. The Tribunal cannot sit in appeal over the findings of the D.P.C. If



the D.P.C. had committed any irregularity or illegality or ignored the consideration of the applicant's name, then the matter would have been different. The applicant has been considered alongwith his seniors and juniors and on the basis of the grading given by the D.P.C. the applicant has not been considered.

We, therefore, do not find any case is made out for interfering with the D.P.C.'s finding.

6. One of the grievance made out by the Learned Counsel for the applicant is that the applicant is a Scheduled Caste candidate and he has been discriminated. But on perusal of the record we find that number of S/C and S/T candidates have been selected in all the three modes of promotion, namely - regular promotion, adhoc promotion and restructured promotion and therefore the applicant's grievance on this ground is neither justified nor borne out from the records. Therefore, we find that there is no merit in the O.A.

7. In the result, the application fails and is dismissed. In the circumstances of the case, there will be no order as to costs.

*B. N. Bahadur*

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(B. N. BAHADUR)

MEMBER (A)

*R. G. Vaidyanatha*

(R. G. VAIDYANATHA)

VICE-CHAIRMAN.