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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 75/95

DATE OF DECISION: 11/4/2000

_____Shri G.P.Tarani _____.Applicant.

_____Shri P.A.Prabhakaran _____Advocate for
_____Applicant.

Versus

_____Union of India & 3 Ors. _____Respondents.

_____Shri V.D.Vadhavkar for _____Advocate for
_____Shri M.I.Sethna _____Respondents.

CORAM:

Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble Shri D.S.Bawejah Member(A)

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

Reported
(R.G.VAIDYANATHA)
VICE CHAIRMAN

abp

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:75/95
DATED THE 11TH DAY OF APRIL, 2000.

CORAM:HON'BLE SHRI JUSTICE R.G.VAIDYANATHA, VICE CHAIRMAN
HON'BLE SHRI D.S.BAWEJA, MEMBER(A)

Shri G.P.Tarani,
R/o.Barack No.1481,
Room.No.9, Section 30-B,
Ulhasnagar.

...Applicant

By Advocate Shri P.A.Prabhakaran

V/s.

1. Chief Commissioner of Income Tax
(Administration),
Aykar Bhavan, Maharshi Karve Road,
Bombay.
2. Central Board of Direct Taxes,
through its Secretary of Ministry
of Finance, North Block,
New Delhi.
3. Union of India,
through the Secretary of
Ministry of Finance,
North Block,
New Delhi.
4. Union Public Service Commission,
through its Secretary,
Dholpur House,
Shahajahan Road,
New Delhi. ... Respondents.

(ORAL) (ORDER)

Per Shri R.G.Vaidyanatha, Vice Chairman

This is an application filed by applicant challenging his non promotion. Respondents have filed reply. We have heard Shri P.A.Prabhakaran, Learned Counsel for Applicant and Shri Arun Bhakkad on behalf of Shri M.I.Sethna, Learned Counsel for Respondents. We have also perused the DPC records produced by Learned Counsel for Respondents.

...2.



2. The applicant was at the relevant time working as Income Tax Officer and he was due for promotion to the rank of Assistant Commissioner of Income Tax. Applicant's grievance is that DPC was held on three occasions and he has been superceeded and his juniors have been promoted. He had good record of service therefore, there was no ground for juniors to supercede him. It is also admitted that it is a selection post. Applicant's representation complaining about the supercession has been rejected by the respondents, therefore the applicant has approached this Tribunal by challenging his non-promotion in 1993 and in 1994. He therefore wants a direction to respondents to promote him from the date his juniors are promoted and for consequential monetary benefits.

3. The respondents in their reply have stated that the applicant's case was considered for promotion by the DPC but in view of the Grading obtained by him, he could not be promoted. Though, it is admitted that Bench mark was "Good", since it is a selection post, promotion is made on the basis of merit which means officials getting Grading of "Outstanding" will be selected enblock, followed by officials getting Grading as "Very Good" and then followed by Candidates who have obtained "Good" on the basis of seniority. The Applicant could not be promoted though his grading was "Good" since there were many candidates with better grading who scaled a march over the applicant.

4. The Counsel for Applicant has questioned the correctness of supercession. The Counsel for respondents submits that the Applicant has been considered and because of Grading, he could not be promoted.



5. Though it is admitted, that it is a selection post, seniority is one criteria, selection is made on the basis of merit, if merit is equal, then seniority will be crucial. It is also now brought to our notice that DPC gives grades like "Good", "Very Good", "Outstanding", etc. Though the Bench Mark is "Good", persons who get better grading like "Outstanding and Very Good" are given promotion in a selection post followed by persons getting Grading as "Good" who will come in the order of seniority.

6. In the DPC held on 7th, 16th, 17th and 21st June, 1993, presided over by UPSC Member and attended by Chairman, CBDT and Member, CBDT, the DPC considered 208 candidates, the total vacancies was only 100 including SC/ST vacancies. The DPC has given Grades for all the Candidates. Some of the findings in respect of some officials were kept in sealed cover presumably because some disciplinary case was pending. The applicant is at Sr.No.77, the grading given against his name is "Good". We find that out of 208 persons, many persons have grading "Very Good" and some grading as "Outstanding". Finally, the DPC has prepared Select List of 100 Candidates on the basis of grading which also includes SC/ST candidates. Since the applicant has been considered on merits and superceeded because of his grading, we do not find any illegality and irregularity in the supercession of Applicant.

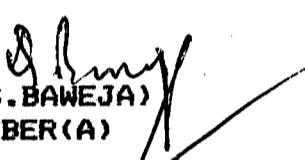
7. Now coming to the DPC held on 31/3/94, 4th and 5th April, 94, we find that it was presided over by the Member, UPSC and the other two Members who attended the meeting was Chairman, CBDT, Member, CBDT. In all there were 100 vacancies including

...4.



SC/ST candidates. The DPC considered the service records of 211 Candidates. Gradings were given as mentioned above like "Good, Very Good, Outstanding, Not fit, etc." Applicant's name appears at Sr.No.43. The grading given is "Good". Since there are many candidates with better grading, applicant could not be selected for the final list of 100 Candidates prepared by DPC. Therefore, we find that the DPC has followed the rules and on the merits of grading, the applicant could not be selected though he had grading as "Good" since there were many candidates with better grading. The DPC has followed the rules. We do not find any illegality or irregularity in the DPC proceedings and since the non selection of applicant is according to rules, the applicant cannot be granted any reliefs in the present OA.

8. In the result, the application fails and is hereby dismissed. There will be no orders as to costs.


(D.S. BAWEJA)
MEMBER(A)


(R.G. VAIDYANATHA)
VICE CHAIRMAN

abp