

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 342/97.

Date of Decision: 17.09.1997.

Vilasrao Balkrishna Patil, Applicant.

Shri R. D. Sony alongwith
Shri V. A. Jadhav, Advocate for
Applicant.

Versus

Union Of India & Others, Respondent(s)

Shri V. S. Masurkar, Advocate for
Respondent(s)

CORAM:

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

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

(1) To be referred to the Reporter or not? ✓ Yes
(2) Whether it needs to be circulated to no other Benches of the Tribunal?


(P.P. SRIVASTAVA)
MEMBER (A).


(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 342 OF 1997.

Dated this Wednesday, the 17th day of September, 1997.

CORAM : HON'BLE SHRI JUSTICE R.G. VAIDYANATHA,
VICE-CHAIRMAN.

HON'BLE SHRI P. P. SRIVASTAVA, MEMBER (J).

Vilasrao Balkrishna Patil,
Director,
Tribal Research & Training
Institute,
Pune.

... Applicant

(By Advocate Shri R. D. Sony alongwith
Shri V. A. Jadhav).

VERSUS

1. The State of Maharashtra
through the Chief Secretary,
Govt. Of Maharashtra,
General Administration Deptt.,
Mantralaya,
Mumbai.

2. Shri J.S. Kavale,
Secretary to the Govt. Of
Maharashtra,
General Administration Deptt.,
Mantralaya,
Mumbai - 400 032.

... Respondents.

3. The Union Of India through
The Secretary,
Ministry of Personnel,
Parliament Street,
NEW DELHI - 110 001.

(By Advocate Shri V.S. Masurkar).

: ORAL ORDER :

¶ PER.: SHRI R. G. VAIDYANATHA, VICE-CHAIRMAN ¶


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This is an application under Section 19 of the Administrative Tribunals Act, 1985. By consent of both the parties, the application is taken up for final hearing. The pleadings are complete. Heard both the sides.

2. The applicant has approached this Tribunal by way of this application challenging the Notification dated 19.12.1996 denying him promotion to the post of Super Time Scale. His case is that, he had a good record of service through out and when his case was considered for promotion to Super Time Scale, he has been denied promotion. His allegation is that there are malafides on the part of the first respondent in denying the promotion due to him. He was entitled to promotion since he had a good record of service through-out.

3. On the other hand, the respondents have filed a reply asserting that the case of the applicant has been considered duly and he has been found unfit for promotion to Super Time Scale. The allegations of malafide are also denied.

4. After hearing both the sides, we do not find any reason to interfere with the impugned order of promotion. The Learned Counsel for the respondents has placed before us the proceedings of the Screening Committee

held on 03.10.1996. The Committee consisted of Chief Secretary and two more Additional Chief Secretaries. Such a high level committee considered the case of many officers including the applicant for promotion to Super Time Scale, and after examining the records they have found that the applicant was "unfit" for promotion to Super Time Scale.

The Learned Counsel for the respondents has also made available to us the Confidential Reports of the applicant from 1989-90 to 1995-96. We find that in two years - for 1991-92 and 1992-93, the applicant is shown as an 'average' officer but in four years he is shown as a 'Very Good' officer and in one year he is shown as 'Good' and in one year he is shown as 'Outstanding'.

The Learned Counsel for the applicant contends that when the applicant has a good record of service, as disclosed in annual ^{Confidential} reports, he could not have been superseded. In our view, this Tribunal cannot sit in appeal over the findings of the Screening Committee. The matter is no longer res-integra and is covered by a direct authority of the Apex Court reported in (1996) 10 SCC 555 in Union Of India & Another V/s. Samar Singh & Others. That was also a case where the applicant had a good record of service and in some years he was shown as 'Outstanding'.

The Principal Bench of the Central Administrative Tribunal, New Delhi, interfered with the order of supersession on the sole ground that the applicant had good entries in the Confidential Reports in his favour. The Apex Court reversed the findings of the Tribunal by quoting with approval, the views of its earlier decision in *Dalpat Abasaheb Solunke V/s. Dr. B.S. Mahajan* and the relevant portion is extracted in page 559, which reads as follows :-

"It is needless to emphasise that it is not the function of the court to hear appeals over the decisions of the Selection Committees and to scrutinize the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The Court has no such expertise. The decision of the Selection Committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the constitution of the Committee or its procedure vitiating the selection, or proved malafides affecting the selection, etc."

5. Therefore, we see that in unequivocal terms the Apex Court has held that the Courts/Tribunals cannot sit in appeal over the decision of the Selection Committee and scrutinize the relative merits of the candidate. It is clearly ruled that whether a particular candidate is fit for a particular post or not has to be decided by the Selection Committee. It is also pointed out that Confidential Reports is not the only material to be considered for promotion to higher post. The argument of

of the Learned Counsel for the applicant that this decision pertains to the post of Secretary to the Government Of India and cannot be made applicable to other posts in the State Government, has no merit. We are only concerned with the Principle of Law, namely; whether a Court or Tribunal can dislodge the findings of the Selection Committee or the Screening Committee ⁱⁿ the competence or otherwise, of an officer for promotion to higher cadre.

6. It is not that the Court can never interfere with the promotion of any persons. The Apex Court itself has pointed out that the question of supersession can be quashed on the ground of illegality or patent material irregularity in the constitution of the Committee or its procedure vitiating the Selection or if the malafides are proved.

In this case, there is no allegation about the Constitution of the Committee or about any wrong procedure adopted by the Committee. No doubt, there is an allegation of malafide^s in para 9 of the application, which according to us are very vague and general and do not constitute malafide as required by Law. A broad allegation that the Respondent No. 1 on extraneous consideration or at the behest of some lobby in the Government had deliberately


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side-lined the applicant, is too vague and general to be given any ~~credential~~ ^{credence} to. Further, the Chief Secretary is not made as a party-respondent by name and he has no opportunity to meet the allegations. In our view, the ~~valid and vague~~ ^{valid and vague} allegations are too ~~void ab initio~~ and general and do not merit any consideration.

7. In our view, a high level committee consisting of one Chief Secretary and two Additional Chief Secretaries have considered the entire material, including the confidential reports and have found that the applicant was unfit for promotion. In our view, we cannot sit in appeal over the findings of the Selection Committee and interfere with the Selection process. Hence, in our view, the applicant has not made out any case for interference with the decision of the Screening Committee.

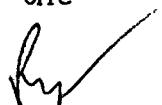
8. At one stage it was argued that the applicant's case be reconsidered immediately since the Committee had reconsidered the case of two others who were found unfit about 4 to 6 months earlier. This allegation though made in the application, has been denied in the reply. It is clearly stated in the reply that those persons were ^{not} ~~found~~ unfit by the Committee but their case had been deferred for want of Confidential Reports and they were duly considered for promotion after the Confidential Reports



were made available. The applicant, though filed a rejoinder, has not ^{met} ~~made~~ this point ^{and} therefore, there is no question of any discrimination being made viz-a-viz the petitioner regarding the promotion to Super Time Scale.

9. The Learned Counsel for the applicant has also made an alternative submission that the Screening Committee may be given a direction to reconsider the case of the applicant with a time bound programme. The Learned Counsel for the respondents, on taking instructions, submitted that the case of the applicant will be reconsidered or reviewed in usual course as per rules. It is also submitted that four members of the previous panel are still awaiting order, and after those persons are appointed, then, when the next review for promotion takes place, the applicant's name will be considered. Hence, we do not want to give any time bound programme to the respondents to review or to reconsider the applicant's case on the basis of the latest confidential reports. We only observe that the respondents shall reconsider and review the case of the applicant as and when the vacancies arise for next promotion, after the present panel is exhausted.

10. In the result, the application is dismissed. However, this order will not come in the way of the



Screening Committee to reconsider and to review the case of the applicant for promotion to Super Time Scale in due course, as per rules. No costs.


(P.P. SRIVASTAVA)
MEMBER (A).


(R.G. VAIDYANATHA)
VICE-CHAIRMAN.

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