

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH ::: GUWAHATI-5.

O.A.No. 148 of of 1998

DATE OF DECISION...16.2.2000.....

Shri Golap Chandra Saikia (PETITIONER(S))

Mr.P.D.Gogoi

ADVOCATE FOR THE  
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Mr.A. Deb Roy, Sr.C.G.S.C.

ADVOCATE FOR THE  
RESPONDENTS.

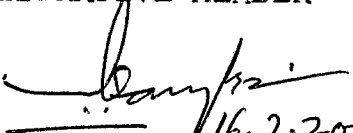
THE HON'BLE MR.JUSTICE D.N.BARUAH, VICE-CHAIRMAN

THE HON'BLE MR.G.L.SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble MR.G.L.SANGLYINE

ADMINISTRATIVE MEMBER

  
16.2.2000

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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.148 of 1998.

Date of Order: This the                      day of February 2000.

HON'BLE MR.JUSTICE D.N.BARUAH, VICE-CHAIRMAN  
HON'BLE MR.G.L.SANGLYINE, ADMINISTRATIVE MEMBER

Shri Golap Chandra Saikia,  
Office of the Circle Organiser  
S.S.B., Kamalpur, P.O. Sangsari  
Dist-Kamrup.

...                      ...                      Applicant.

By Advocate Mr.P.D.Gogoi,

-Vs-

1. Union of India,  
represented by the Secretary to the  
Government of India, Cabinet Secretariat,  
New Delhi.
2. Director, S.S.B., East Block-V, R.K.Puram,  
New Delhi-110066.
3. Divisional Organiser, S.S.B.,  
North Assam Division, Tezpur.
4. Shri N.N.Gogoi,  
Assistant Field Officer(Medic)  
Office of the Sub-Area Organiser,  
S.B.B. Dhemaji.
5. Shri B.N.Boarh,  
Assistant Field Officer(Medic)  
C/O.Divisional Organiser, S.S.B.  
Shillong Division, Meghalaya, Shillong.

By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.

O R D E R.

G.L.SANGLYINE, ADMINISTRATIVE:

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This application was submitted by the applicant for correction of his seniority and seeking direction for his promotion. The applicant was appointed Constable (Medic) in the Special Security Bureau(S.S.B for short) on 18.10.1967. Thereafter he was promoted to the rank of Head Constable (Medic) which was since re-designated as Senior Field Assistant(Medic). He is continuously working in this grade from 8.1.1968. In this application

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the applicant has sought a direction on the official respondents to review the seniority list of Senior Field Assistant (Medic) as on 31-12-1997, Annexure -A, in which he was placed at serial No.60. According to the applicant his ~~correction~~ position should have been Sl.No.1 of the seniority list. Further, he prays that the respondents be directed that after such correction of the seniority list he is to be considered for promotion to the rank of Assistant Field Officer(Medic). Moreover, he prays for a direction to confirm him in service against a permanent post since he had worked for more than 30 years.

The department had published seniority lists from time to time in which the applicant was shown below his juniors. The applicant submitted representations against the seniority lists published but there was no response from the respondents No.1 and 2 to his representations. There was no correction of the seniority list but his juniors were promoted from the rank of Senior Field Assistant (Medic) to the rank of Assistant Field Officer(Medic) till 1997 ignoring the applicant. The applicant submitted a representation dated 30.4.1998 against the latest seniority list at Annexure -A. There was no reply but in June 1998 two Senior Field Assistant (Medic), respondents No.4 and 5 in this O.A. who occupied position No.1 and 2 in the seniority list were promoted to the higher rank of Assistant Field Officer(Medic). Thereupon the applicant submitted this Original Application. The respondents No.1,2 and 3 have contested the application and submitted written statement. According to them the applicant was rightly placed in the Annexure A seniority

list at Sl.No.60. His earlier representations were not received by them but the representation dated 30.4.1998 was replied to by letter dated 1.7.1998. They contend that the placement of the applicant at Sl.No.60 was according to the SSB(Para Medical Staff) Recruitment Rules, 1997 which was circulated under Cabinet Secretariat letter No.EA/SE-175/74 dated 15.3.1977. According to these Rules persons who were not approved by the Screening Committee constituted under the rules for permanent absorption at the initial constitution of service became junior to those who were approved for permanent absorption. The applicant was not so approved and therefore had become junior to those who were approved for permanent absorption. Consequent to such contention the applicant submitted a rejoinder and additional statement contending that the aforesaid Recruitment Rules 1997 have no force of law mainly because the rules were classified as secret/restricted and were not notified and they cannot be applied against him so as to alter his service conditions and prospect of promotion to his disadvantage. These were served by the applicant on the learned counsel of the respondents. But no reply has come forward from the respondents.

We have heard learned counsel of both sides. The relevant portion of the Recruitment Rules 1977 which have affected the seniority position of the applicant are re-produced below :

"4. INITIAL APPOINTMENT:

1. All persons holding, as on the appointed day, any of the posts in the grades specified in column 2 of the schedule hereto annexed, whether in a permanent or temporary or officiating capacity or on deputation basis, shall be eligible for appointment to the said posts at the commencement of these rules.

contd.4/-

2. The controlling authority shall constitute a Screening Committee in respect of each grade for adjudging the suitability of persons, who being eligible to be appointed to the grades under sub rule(1), were serving in the said grade immediately before the commencement of these rules, for permanent appointment therein and every committee so constituted shall, subject to such general or special instructions as the controlling authority may give and after following such procedure as the committee may deem fit, prepare lists of persons considered suitable for appointment in each grade with the names of such persons arranged in the order of seniority based on the date of continuous appointment in the grade in which they are to be absorbed or in an equivalent grade.

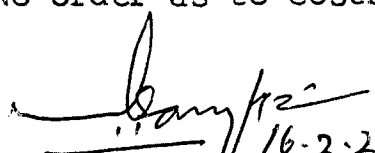
Provided that if the controlling authority deems it necessary so to do, the same committee may be constituted to function in relation to two or more grades or different committees may be constituted to function in relation to the same grade for different sub-offices."

These rules were, according to the respondents, circulated in File No.EA/SE-175/74 dated 15.3.1977. They came into force at once. The respondents have not however stated as to the actual date on which these rules came into effect or when the Screening Committee considered the case of the applicant under Rule 4 above. We were not also enlightened at the hearing whether the rules were originally notified in 1977 though we have noticed that even the amendment of the Rules by which the Rule 7 of the Rules was deleted was notified vide Cabinet Secretariat Notification No.A-12018/38/81-DO-I(I) dated 10.6.1982 as would be seen from the foot-note appended to Annexure-A to the written statement. We are not informed however, whether this notification of 1982 was published in the Gazette of India. We are not therefore in a position to come to a decision whether the rules were notified or kept in secret. The seniority position of Senior Field Assistants (Medic) was published from time to time and according to the applicant himself he had protested against the correctness of the seniority lists published since 1981 to 1997. The respondents deny receipt of any of the

of the representations of the applicant. Assuming that the representations against the seniority list were actually submitted by the applicant, but the applicant had not approached the Tribunal for relief prior to submission of the present Original Application. The basis of the existing seniority in the cadre of Senior Field Assistant(Medic) had continued since long. Many promotions were made upto 1997 on the basis of the seniority in the cadre. In 1998 also promotion of respondents No.4 and 5 were affected on the basis of the same seniority and this is now agitated again by the applicant in this present application. Normally the seniority position of the Senior Field Assistants (Medic) cannot be unsettled after such long lapse of time. Prior to 1977 however there was no recruitment rules of the SSB (Para Medical Staff). The applicant submitted that he came to know only when his representation was disposed of by letter No.21/SSB/A-4/98(10)-4361 dated 1.7.1998 that there was a recruitment rule and he was found unsuitable in the selection for permanent absorption at the initial constitution of service stipulated in the rules. So long he was agitating about his seniority position simply on the ground that there were errors in the seniority lists published by the respondents from time to time. In these circumstances we dispose of this application with liberty to the applicant to contest the merit of his rejection to be absorbed permanently at the initial constitution of the service with prayer for condonation of delay, if any, without prejudice to the contentions raised in this application.

The application is disposed of. No order as to costs.

  
(D.N. BARUAH)  
VICE-CHAIRMAN

  
(G.L. SANGLYINE)  
ADMINISTRATIVE MEMBER  
16-2-2000