

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,**  
**JABALPUR**

**Original Application No. 737 of 2003**

Jabalpur, this the 17<sup>th</sup> day of December, 2004

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri Madan Mohan, Judicial Member

Shri Radhakrishnan Nair,  
S/o. Shri V.P.S. Kurup, aged 46 years,  
Vice Principal, Jawahar Navodaya  
Vidyalaya, Bari, Raisen, Distt.  
Raisen (MP). .... Applicant

(By Advocate – Smt S. Menon)

**V e r s u s**

1. Union of India, through : Secretary,  
Ministry of Human Resources Development,  
(Department of Education),  
Govt. of India, New Delhi.
2. Commissioner, Navodaya Vidyalaya  
Samiti, Indira Gandhi Stadium, Near ITO,  
New Delhi.
3. Deputy Director, Navodaya Vidyalaya  
Samiti, Bhopal.
4. Smt. Harjinder Pal Kaur, Principal,  
Jawahar Navodaya Vidyalaya,  
Ferozpur (Punjab). .... Respondents

(By Advocate – Shri O.P. Namdeo for official respondents)

**ORDER**

**By Madan Mohan, Judicial Member –**


By filing this Original Application the applicant has claimed the following main reliefs :

“(I) to quash the order of promotion dated 30.4.2002 (Annexure A-5) and hold it as malafide and illegal and/or direct the respondents to consider the applicant for promotion to the



post of Principal from a retrospective date and to grant all the consequential and ancillary service benefits.”

2. The brief facts of the case are that the applicant joined the Navodaya Vidyalaya Samiti on 1.6.1989 as a Post Graduate Teacher in the faculty of English and was posted at Amravati. Vide office order dated 3.3.1999 the applicant was ordered to take over the charge of Principal, Jawahar Navodaya Vidyalaya, Kuniyar, Distt. Solan (HP) with effect from 15.3.1999. Consequent upon the joining of regular Principal, the applicant returned to his parent Vidyalaya in the month of September, 1999 after successful completion of his duty. Again vide order dated 9.2.2000 the applicant was entrusted to look after the general administration and to act as Academic Incharge of Jawahar Navodaya Vidyalaya, Solan due to his perfection in duty for a period of 15 days. As per order dated 1.8.2000 the applicant was asked to take over the charge of Mahianvala Kalan with immediate effect. The applicant took the charge from the respondent No. 4. The respondents issued the Seniority list of Vice Principal as on 31.12.1999, wherein the name of the applicant is reflected at Serial No. 25 while that of respondent No. 4 at serial No. 91. In so far as the appointment of Vice Principal was concerned, the applicant was functioning on the said post with effect from 1.11.1998 while the respondent No. 4 with effect from 10.11.1998. The official respondents promoted the respondent No. 4 as Principal with effect from 4.4.2002 vide order dated 30.4.2002. At the material time the applicant was performing the duties of Principal at Jawahar Navodaya Vidyalaya, Ferozpur. The applicant was thereafter posted as Vice Principal and was asked to take over the charge of Incharge Principal, Jawahar Navodaya Vidyalaya, Khanpora, Budgam. He submitted a representation and thereby vide order dated 19.7.2002 the applicant was posted to Hamirpur. The applicant again submitted his representation to the respondents in which he stated that he was functioning as Incharge Principal, Jawahar Navodaya Vidyalaya, Ferozpur, with effect from 15.8.2000 to 30.4.2002. Yet his promotion was ignored and his junior had come to be promoted. So far as the criteria for promotion to the post of Principal is concerned,



the applicant was appointed as a regular Post Graduate Teacher prior to 29.12.1989 therefore, he was required to appear in a departmental examination or personal talk or the annual confidential reports of the previous 5 years were to be looked into. At the time when the respondent No. 4 was promoted there was nothing adverse against the applicant nor any order of penalty was issued and, therefore, the applicant was entitled to be considered for promotion to the post of Principal. The act of the official respondents in promoting the respondent No. 4 is illegal and improper. Hence, this Original Application is filed.

3. Heard the learned counsel for the parties and perused the records carefully.

4. It is argued on behalf of the applicant that, apparently he was senior to the respondent No. 4 as per the seniority list of the Vice Principal for 31.12.1999. The name of the applicant was at serial No. 25 and that of the respondent No. 4 was at serial No. 91. So far as the appointment of Vice Principal was concerned, the applicant was functioning on the said post with effect from 1.11.1998 while the respondent No. 4 with effect from 10.11.1998. There was nothing adverse against the applicant regarding his work, conduct and integrity. There was no disciplinary proceeding pending against him and the respondents also never penalized him. His performance was excellent and even then he was ignored of his due right of promotion and was superseded by his junior i.e. the respondent No. 4. Hence, the action of the respondents is apparently illegal and unjustified.

5. It is argued on behalf of the respondents that the respondent No. 4 was promoted as Principal w.e.f. 4.4.2002 whereas the applicant was not promoted. The DPC which met on 27<sup>th</sup> and 28<sup>th</sup> March, 2002 considered the cases of the applicant and respondent No. 4 along with other eligible candidates and did not found the applicant fit for promotion as he did not possess the bench mark for promotion to the post of Principal. The criteria for promotion was based on the basis of merit cum seniority and taking



into account the ACRs of the previous five years. For promotion from Group B to Group A post the bench mark is "Good". Since the applicant did not had the prescribed bench mark, the DPC which considered the case of the applicant had not recommended his name for promotion to the post of Principal, but as the respondent No. 4 possessed the ratings prescribed by the DPC for promotion as Principal was recommended for the said promotion. The circular dated 10.2.2003 was not in existence when the DPC met on 27<sup>th</sup> and 28<sup>th</sup> March, 2002. It was issued afterwards in the year 2003, hence consideration of the said circular did not arise.

6. After hearing the learned counsel for both the parties and on careful perusal of the records, we find that incase of promotion the DPC has to consider the service records of the employees i.e. the ACRs etc. We have perused the DPC proceedings which was held on 27<sup>th</sup> and 28<sup>th</sup> March, 2002 and we find that the DPC has considered the name of the applicant and also the name of the private respondent No. 4 along with the other eligible candidates but the name of the applicant was not found fit, as he did not possess the requisite bench mark for promotion to the post of Principal while the respondent No. 4 possessed the required bench mark. Accordingly, her name was recommended for promotion to the post of Principal by the DPC. We have also perused the ACRs of the applicant and the respondent No. 4. We find that the following gradings were given to the applicant and the private respondent No. 4 :

<u>Applicant</u>	<u>Years</u>	<u>Gradings</u>
	1997	Good
	1998	Very good
	1999	Good
	2000	Good
	2001	Satisfactory
<u>Respondent No. 4</u>	1996-1997	Very good
	1998	Outstanding
	1999	Very good
	2000	Very good
	2001	Very good



We further find that the DPC held on 27<sup>th</sup> and 28<sup>th</sup> March, 2002 has also considered all the facts relating to the service records of both the candidates i.e. the applicant and the respondent No. 4 while considering their cases for promotion to the post of Principal. The Hon'ble Supreme Court in the case of Smt. Nutan Arvind Vs. Union of India & Anr., 1996 (1) SLR 774 held that "Promotion – Confidential report – Departmental Promotion Committee (DPC) a high level committee – Court cannot sit over the assessment made by the DPC as an appellate authority – Whether or not an officer was competent to write the confidential is for the DPC to decide and call for report from the proper officer, if necessary – No interference."

7. In view of the law laid down by the Hon'ble Supreme Court and also considering all the facts and circumstances of the case, we are of the opinion that the applicant has failed to prove his case and this Original Application is liable to be dismissed as having no merits. Accordingly, this Original Application is dismissed. No costs.

(Madan Mohan)  
Judicial Member

(M.P. Singh)  
Vice Chairman

"SA"

पृष्ठांकन सं. ओ/न्या.....जबलपुर, दि.....

पलितिमि अच. विन:-

(1) सचिव, उच्च न्यायालय काय एकोनिएशन, जबलपुर

(2) आवेदक श्री/श्रीमती/शु.....के काउंसल

(3) प्रत्यक्षी श्री/श्रीमती/शु.....के काउंसल

(4) कार्यपाल, कै.अ.अ., जबलपुर न्यायाधीश

सूचना एवं आवश्यक कार्यवाही हेतु

अप रजिस्ट्रार

Issued  
On 21-12-04  
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Lut. S. Manan Adv. 2030  
O.P. Ramdeo Adv. 2030