

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.18 of 1994

Date of order: 24.8.1995
(At Kohima)

The Hon'ble Justice Shri M.G. Chaudhari, Vice-Chairman

The Hon'ble Shri G.L. Sanglyine, Member (Administrative).

Shri N. Krishnan Kutty NairApplicant

The applicant appears in person

- versus -

Union of India & othersRespondents

By Advocate Shri S. Ali, Sr. C.G.S.C.

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O R D E R

Applicant, N.K.K. Nair in person

Mr S. Ali, Sr. C.G.S.C. for the respondents.

After hearing the applicant at length and carefully going through the record we are of the view that the applicant has not projected his real grievance in the application in a manner as would enable us to adjudicate upon the matter.

2. Shortly stated, the applicant's grievance starts with the selection made for promotion to the post of Supervisor. However, he was not selected by the DPC. This according to the applicant was wrong. Another person, namely, Francis Cecil who was senior to the applicant, was also not selected. Francis Cecil had taken his grievance to the Jabalpur Bench of the Central Administrative Tribunal in O.A.No.55 of 1986. By order dated 24.12.1987

[Signature]

the Bench directed to constitute a special Review Committee to go into the question of promotion to the post^s of Supervisor from the rank of Assistant Supervisors which were impugned in the petition on merits afresh in the light of the observations and prepare a new panel. Thus the appointments for which the selection was initially held in 1984 was subject to the fresh selection made by the Review DPC. That necessarily would imply reconsideration of the case of the applicant for selection as in 1984 by the Review DPC Committee. It is the grievance of the applicant that he has come to know as late as in the year 1992 from a list published by the respondents that Francis Cecil has already been given the benefit of promotion from 1984 retrospectively by the Review DPC. According to him he was not aware as to when the Review DPC was held and as to why he was not selected even though he had a very good service record all throughout. Although he has alleged in the application that the Review DPC seems to have considered only one name, i.e. of Francis Cecil, the written statement filed by the respondents contains a statement in sub-para of para 9 reading as follows:

The applicant, Shri N.K.K. Nair secured only average grading. Moreover he was junior to Shri Francis Cecil. Hence his name could not be considered for promotion. Other juniors were already promoted due to having higher grading.

This presumably has a reference to the proceedings of the DPC. These are, however, not sufficient to enable us to determine as to whether the Review DPC has considered the name of the applicant or what were the precise reasons for which he could not be selected. The applicant also says

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that if he has been classified as average that would be a perverse action of the DPC. We cannot, however, go on the frame of the present application into the question of validity of the proceedings of the Review DPC for grounds already indicated or any other grounds which the applicant may have available to him to challenge its legality and correctness. Although that is the crux of the case the applicant has not made any averments in the instant application relating to that aspect. In our view he cannot be denied a fair opportunity to do so.

3. The second part of the grievance of the applicant is that after the 1986 selection in pursuance of which he was also promoted two of his juniors have been given higher place and that also is without any rational basis and is illegal and has caused prejudice to him. That position has also not been satisfactorily explained by the respondents. In the circumstances we think it feasible to allow the applicant to withdraw this application with liberty to file a fresh application pin-pointing his grievances against the above noted aspects in particular and also joining the junior persons against whom he has grievance as respondents so that all the questions can be effectively dealt with. In our view allowing the applicant to amend the application is likely to create more confusion and, therefore, we have adopted this course.

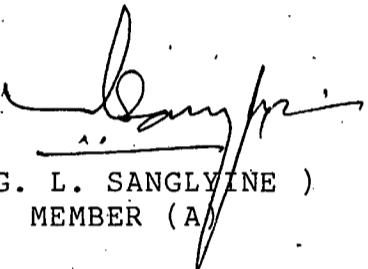
4. The original application is thus allowed to be withdrawn with liberty to file a fresh application in the light of above observations. We grant liberty to the applicant to rely upon all the contentions and documents produced by him in the instant O.A. in support of his

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fresh O.A. The fresh application when filed will be treated as within limitation in pursuance of liberty granted hereunder, if it is filed within a period of reasonable time from today preferably within one month. The applicant, however, shall give copies of the same directly to Mr S. Ali, learned Sr. C.G.S.C. He shall also supply necessary requisites so that the notices can be served early.

5. Copy of the order may be supplied to the applicant and Mr S. Ali.


(G. L. SANGLYINE)

MEMBER (A)


(M.G. CHAUDHARI)
VICE-CHAIRMAN

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