

8

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-94/95 ordersheet Pg 1 to 2

INDEX

M.P-134/97 ordersheet Pg 1

Disposed date-8/5/97

✓ O.A/T.A No. 203/95

R.A/C.P No.

E.P/M.A No. 94/95

1. Orders Sheet. 203/95 Pg. 1 to. 7
2. Judgment/Order dtd. 26/3/98 Pg. 1 to. 4 Disposed
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 203/95 Pg. 1 to. 47
5. E.P/M.P. 94/95 Pg. 1 to. 7
6. R.A/C.P. M.P-134/97 Pg. 1 to. 3
7. W.S. Pg. 1 to. 6
8. Rejoinder. Pg. 1 to. 8
9. Reply. NIL Pg. to.
10. Any other Papers. NIL Pg. to.
11. Memo of Appearance. NIL
12. Additional Affidavit. NIL
13. Written Arguments.
14. Amendment Reply by Respondents.
15. Amendment Reply filed by the Applicant.
16. Counter Reply.

SECTION OFFICER (Judl.)

ORIGINAL APPLN.NO. 203 OF 1995
 TRANSFER APPLN.NO. OF 1995
 CONTEMPT APPLN.NO. OF 1995 (IN NO.)
 REVIEW APPLN.NO. OF 1995 (IN NO.)
 MISC.PETITION NO. OF 1995 (IN NO.)

..... N. K. K. Nair APPLICANT(S)

..... U. O. I. ... -vs- ... Respondent(S)

For the Applicant(s) ... Mr. J. L. Satekar
 - Mr. M. Chandra
 Mr.
 Mr.

For the Respondent(s) Mr. S. Ali, for C.A.S.C.

OFFICE NOTE	DATE	ORDER
<p>This application is in form and within time C. F. of Rs. 50/- deposited vide IPO/BD No. 327309 Dated 14.9.95</p> <p><i>[Signature]</i> 18/9/95 By Registrar (d) <i>[Signature]</i></p>	<p>19-9-95</p> <p>1m</p> <p><i>[Signature]</i> 12/9</p>	<p>Adjourned to 21-9-95.</p> <p><i>[Signature]</i> Vice-Chairman</p> <p><i>[Signature]</i> Member</p>

OFFICE NOTE

DATE

ORDER

OFFICE NOTE

DATE

COURT'S ORDER

21.9.95

Mr M. Chanda for the applicant

Mr S. Ali, learned Sr. C.G.S.

for the respondents.

Heard Mr M. Chanda. Two points are mainly raised. Firstly, the Special Review Committee did not prepare a fresh panel and secondly the evaluation made by the Review Committee in respect of the application is wrong. Whether the second point can have any merit depends upon the answer to the first question. It is for the respondents to show whether the Review Committee had followed the directions of the Jabalpur Bench. Issue notice to the respondents to show cause as to why the application be not admitted and interim order prayed be not granted. Returnable 16.11.1995. No ad interim relief granted at this stage.

hise
Vice-Chairman

620
Member

nkm

to 22/9

*Requisites are read
& issued n.no. 6632-40
d. 26.10.95
7/9/95*

*Notice sent on
2.10.1.*

*Notice received back
from R. no. 7 & 8.
by*

OFFICE NOTE


DATE


COURT'S ORDER

16.11.95

No show cause reply has been filed by the respondents. In view of the points noted on 21.9.95 the O.A. is admitted. Issue notice to the respondents. 8 weeks for written statement. No interim order at this stage.

Adjourned to 16.1.1996.



Member


Vice-Chairman

pg

16.1.96

To be listed to 29.2.96. Liberty to file counter.


Vice-Chairman

nkm

29.2.96

For Leaveing
2.4.96

2.4.96

Notice unserved on respondents 7, 8 and 9. Counsel of the applicant may be informed to furnish correct address and take steps for service. In the meantime O.A. is listed for hearing on 4.6.96.

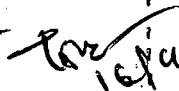
Inform counsel of the applicant.


Member

pg

Copy of application already sent.

Notice issued vide

no. 5224-328. 7.12.95 

16/11/95

Notice sent on R. 12.5

Notice sent back from R. 7, 8, 9.

14/11
1/12/95
stated that not sent W

14/11

Notice sent on R. no. 1, 2, 3 & 5

14/11

28-3-96

Notice sent on R. no. 1, 2, 3 & 5

Notice unserved on R. no. 7, 8 & 9.

14/11

4.6.96

Informed to counsel
of applicant.

Learned counsel Mr M.Chanda for
the applicant prays for adjournment
as he has been served written statement
today only.

Hearing adjourned to 4.7.96.

Member (A)

Member (J)

17.5.96

W/s filed on pg
behalf of im Respond.
No. 1-9.

4-7-96

Learned counsel Mr.J.L.Sarkar
the applicant. Mr.S.Ali, Sr.C.G.S.C.
the respondents.

List for hearing on 1-8-96.

Member

Notices duly served
on Responds No. 1,2,3 & 5. 1m

Notices in served on
Responds no. 6,7,8,9. 1-8-96

w/ stated this was
served on Responds no.
1-9.

20/8/96

Learned counsel Mr.M.Chanda for
the applicant. None for the respon-
dents. Notice is served on the respon-
dents No.1,2,5 and 6. Respondent No.9
has refused notice according to postal
remarks in the envelop. Respondent No
expired as stated in the postal remar
on the envelop. Respondent No.8 had 1
address as per postal remarks. No ser
report on respondent No.4. Therefore,
service on respondent No.4 & 8 are ye
to be effected. Reported.

However, written statement has
submitted by learned Sr.C.G.S.C. Mr.S
for respondent No.1 to 9 in the O.A.
is ready for hearing.

List for hearing on 29-8-96.

Member

20.8.96

Rejoinder filed by 1m
the applicant. in reply
to W/sal-19. 43-10.

Service Repairs on
Respond. no. 4 is still
awaited.
20.8.96

forwarded by Sun B.W.

4
stated - has been WD
be held at Regdls no
- 9

29.8.96

Mr M.Chanda for the applicant.
Mr S.Ali, Sr.C.G.S.C for the respon-
dents.

List for hearing on 25-9-96.

62
Member

pg

25.9.96

Mr M.Chanda for the applicant.
List for hearing on 13.11.96.

62
Member

pg

25/9

13.11.96

None present. List for hearing on 12.12.96

62
Member

pg

14/11

8.5.97

Counsel for the parties submit that
the case is ready for hearing.

List on 27.6.97 for hearing.

62
Member

2B
Vice-Chairman

pg

9/5

10.6.97
(Kohima)

Mr. S.Ali, Sr. C.G.S.C. has not produced
records as directed in our order passed in M.F.
No. 134/97 dated 8.5.97. Mr. Ali prays for some
time to produce the same. Therefore it will not
be possible for to dispose of this case. For
the ends of justice we adjourn the case till 24.7.97
hearing List on 24.7.97 for hearing.

Member

2B
Vice-Chairman

trd

24-7-97

Left over. List on 5-9-97

5-9-97. Left over. List on 13-11-97. By order

's and Regdls by
Sun B.W.

4-9-97

Records has not
been filed.
23/9/97 Record
filed

W/S and Rejoinder
has been filed

13-11-97

On the prayer of counsel for
the parties case is adjourned till
8-12-97.


Member


Vice-Chairman

5.12.97

The case is ready
for hearing as
regard Service & W/S.

lm
nb
21/11

8.12.97 Adjourned to 18.12.97.

By order

21/11
5.12

W/S and Rejoinder
has been filed

18.12.97 Leftover. List on 20.1.98
By order

21/12

W/S and Rejoinder
has been filed

20-1-98

There is no representation on
behalf of the parties. Case is adjourned
till 16-2-98.


Member


Vice-Chairman

17.2.98

There was a holiday
on the parliamentary
election on 16.2.98.

lm
nb
21/1

18.2.98

The case is otherwise ready
for hearing. List it for hearing on 9.3.

Therefore, adjourned to
18.2.98 & FFDH.


Member


Vice-Chairman

nkm

W/S and Rejoinder
has been filed.

9.3.98 Passover on 10th day.

By order

21/12
6.3

10.3.98 Leftover. List on 12.3.

By order

Amendment is carried out
in terms of order
dated 21.9.95 passed
in M.P. 94/95.

rs
9/3/98

12.3.98

On the prayer of the learned counsel for the parties the case is adjourned till 24.3.98.

Member

Vice-Chairman

nkm

NS
16/3

24.3.98 Adjourned to 26.3.98.

By order.

26.3.98

Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.

Member

Vice-Chairman

nkm

24.4.98

Copy of the order has been sent to the D/Sec. for issuing the same to the parties through Regd. Ltr. A/D vide Despatch

Sl. No - 1177
1183 -

dated 30.4.98.

a

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

O.A.No. 203 of 1995

DATE OF DECISION..... 26.3.1998

Shri N. Krishnan Kutty Nair (PETITIONER(S))

Mr J.L. Sarkar and Mr M. Chanda ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India and others RESPONDENT(S)

Mr S. Ali, Sr. C.G.S.C.

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 ? *yes*
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 Vice-Chairman.



10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.203 of 1995

Date of decision: This the 26th day of March 1998

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri N. Krishnan Kutty Nair,
Supervisor, Military Farm Depot under
Government of India, Ministry of Defence,
Dimapur, Nagaland.Applicant
By Advocate Mr J.L. Sarkar and Mr M. Chanda

-versus-

1. Union of India, through the
Secretary, Ministry of Defence,
Government of India,
New Delhi.
2. Quarter Master General,
Director General of Military Farms,
QMGS Branch, AHQ,
New Delhi.
3. The Deputy Director General,
Military Farms, QMGS Branch, Wing No.7,
West Block -III, New Delhi.
4. Shri Rajendra Nath Shukla (8060669)
Supervisor, Military Farm,
Jabalpur, Madhya Pradesh.
5. Shri O.M. Prakesh (8060581),
Supervisor, Military Farm,
Ferozpur, Punjab.
6. Shri S.B. Bajpai (8060581),
Supervisor, Military Farm,
Jabalpur, Madhya Pradesh.
7. Sumati Naran Pandey,
Supervisor, Military Farm,
Jabalpur, Madhya Pradesh.
8. Shri Brahm Dutt (8060832),
Supervisor, Military Farm,
Pimpri, Pune.
9. Shri Hozari Lal Dhankar (8060695),
Supervisor, Military Farm,
Srinagar, Jammu & Kashmir.Respondents

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

.....

XB

O R D E R

BARUAH.J. (V.C.)

This application has been filed by the applicant seeking certain directions as mentioned in para 8 of the application and also to promote the applicant with retrospective effect from the date his juniors had been promoted with all consequential benefits.

2. Facts for the purpose of disposal of this application are:

The applicant was initially appointed Sub Assistant Supervisor in the year 1970. Thereafter, he was promoted to the post of Assistant Supervisor in 1978. In April 1987 he was further promoted to the post of Supervisor in a Military Farm. At the time of filing of this application he was posted in the Military Farm at Dimapur in June 1993 and since then he has been working in that capacity.

3. The case of the applicant is that he was entitled for promotion to the post of Supervisor in the year 1981. At the relevant time he had completed three years regular service in the cadre of Assistant Supervisor which was necessary for promotion to the cadre of Supervisor including passing of the departmental intermediate course. As he was qualified in the year 1981 itself he was entitled to get the promotion. It is true that there were no statutory rules for promotion to the cadre of Supervisor, but the applicant was not selected for the post of Supervisor without any reasonable ground. In 1984 the Director, Military Farms, laid down certain



12

guidelines for promotion to the cadre of Supervisor pursuant to the Department of Personnel and Administrative Reforms letter dated 30.12.1978, which according to the applicant was defective. As he was not promoted he preferred an appeal before the Appellate Authority, but it was turned down by the Appellate Authority. In 1984 the DPC was held. However, the applicant and another person, Shri Francis Cecil, serving in Jabalpur, were not selected by the DPC. The said Shri Francis Cecil had challenged the DPC, which met on 26.4.1984, before the Jabalpur Bench of the Tribunal. According to said Shri Francis Cecil the selection procedure adopted was not just and proper. His name was not included in panel of officers for promotion to the cadre of Supervisor. The panel was notified by letter dated 13.12.1984. The said application was registered as O.A.No.55 of 1986 before the Jabalpur Bench of the Tribunal. The Jabalpur Bench disposed of the said application (O.A.No.55/86) by Judgment and Order dated 24.12.1987, by making the following order:

"Consequently, for the reasons discussed, we direct constitution of a special Review Committee to go into the question of the Promotion to the posts of Supervisor from the rank of Asstt. Supervisors which are impugned in this petition on merits afresh in the light of our observations and prepare a new panel. It is not necessary to revert any of the respondents pending the recommendations of the review D.P.C. However, if the Special Review D.P.C. on merits does not find any of the respondents fit for promotion they shall be reverted back to their former posts and the intervening period in respect of such respondents treated as ad-hoc promotion. The case of the petitioner for promotion to the post of Supervisor will also be reviewed afresh. If he is considered by the Review Committee to be fit for promotion he would be promoted with effect from the date of promotion of his next junior. The Special Review Committee should meet and process their recommendations as on the date of the

Original.....

203

Original D.P.C. ignoring subsequent ACR's or development within three months of the date of communication of this judgment."

The said judgment was accepted by the authority and in compliance of the said judgment a Review DPC was held on 25.2.1988 and the said Shri Francis Cecil was promoted to the post of Supervisor.

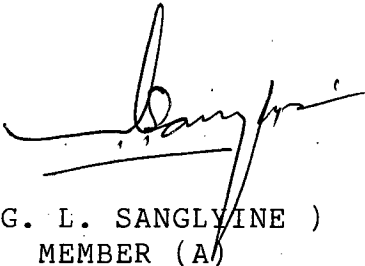
4. We have heard Mr J.L. Sarkar, learned counsel for the applicant and Mr S. Ali, learned Sr. C.G.S.C. Mr Sarkar submits that the facts of the present case is identical with that of original application No.55/86 and the department having accepted the judgment of the Jabalpur Bench of this Tribunal by complying with the direction given, there is no reasonable ground for distinguishing the case of the applicant with that of Shri Francis Cecil. Mr Sarkar further submits that the department having accepted the direction given by the Jabalpur Bench so far as Shri Francis Cecil was concerned, there was no justification to deny the same benefit to the applicant. This was in complete violation of the equality clause of the Constitution. Mr S. Ali does not dispute the fact. He agrees that similar benefit should also be given to the present applicant as the facts of the said Shri Francis Cecil are almost identical and both Shri Francis Cecil and the present applicant were disqualified by the same DPC.

5. Considering the submissions of the learned counsel for the parties and on perusal of the judgment of the Jabalpur Bench of the Tribunal passed in original application No.55 of 1986 on 24.12.1987 we hold that the present.....


82

present applicant is also entitled to get similar benefits. Accordingly, we dispose of this application with direction to the respondents to hold a Review DPC and thereafter pass orders accordingly. This must be done within three months from the date of receipt of this order.

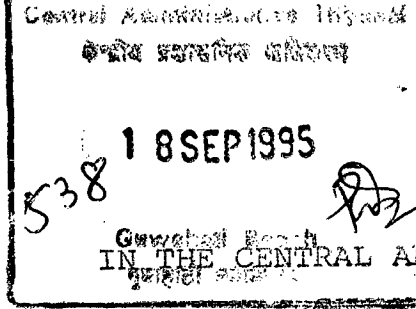
6. The application is accordingly disposed of. However, considering the facts and circumstances of the case we make no order as to costs.



(G. L. SANGLYINE)
MEMBER (A)



(D. N. BARUAH)
VICE-CHAIRMAN



15
Filed by the applicant
through M. Chanda

An Application under Section 19 of the
Administrative Tribunals Act, 1985.

O. A. No. 203 of 1995

Shri N.K.K. Nair
..... Applicant

-Versus-

Union of India & Ors. ... Respondents

I N D E X

Sl. No.	Annexure	Particulars	Page No.
1	-	Application	1-19
2	-	Verification	- 20 -
3	1	Lr. dated 29.8.84	21-24
4	2	Lr. dated 28.10.92	25-29
5	3	Representation dt. 8.4.93	29 (a) - 30
6	4	Lr. dated 18.6.93	- 31 -
7	5	Lr. dated 2.7.93	- 32 -
8	6	Panel of Recruitment year 1984	- 33 -
9	7	Panel of Recruitment year 1986	- 34 -
10	8	Part II Order dt. 4.7.88	35-36
u.	w/Statute	- - -	37-42

Received copy.
Sd/- Sr. CGSC
15/9/95

Filed by :
Manik Chanda
Advocate

1. Particulars of the applicant :

Sri N. Krishnan Kutty Nair,
S/o Late K. Narayan Pillai
presently working as Supervisor
in the Military Farm Depot,
Dimapur, Nagaland,
under the Govt. of India,
Ministry of Defence,
New Delhi

..... Applicant

2. Particulars of the Respondents

✓ 1. Union of India Through the Secretary,
Ministry of Defence,
Govt. of India,
New Delhi

✓ 2. Quarter Master General, ✓
Director General of Military Farms
QMGS Branch
AHQ, P.O. - R K Puram
New Delhi

✓ 3. The Deputy Director General ✓
Military Farms,
QMGS Branch
Wing No. 7
West Block-III
R.K.Puram,
New Delhi

④ 4. Sri Rajendra Nath Shukla (8060669)
Supervisor
Military Farm,
Jabalpur
Madhya Pradesh



5. O.M.Prakash (8060581) ✓

Supervisor,

Military Farm

P.O. Ferozpur

Punjab

6. Sri S.B. Bajpai (8060581) ✓

Supervisor,

Military Farm

Jabalpur

Madhya Pradesh

7. Sumati Naran Pandey ✓

Supervisor,

Military Farm,

Jabalpur

Madhya Pradesh

8. Sri Brahm Dutt (8060832) ✓

Supervisor

Military Farm

Pimpri

Pune-17

9. Sri Hezari Lal Dhankar (8060695) ✓

Supervisor

Military Farm

Srinagar,

J & K

..... Respondents

[Handwritten signature]

3. Particulars for which this application is made :

This application is made claiming retrospective promotion from the date of promotion of applicant's junior i.e. for the recruitment year 1984 in the light of the Judgement and Order dated 24.12.1987 passed in O.A. 55/198 by the Hon'ble Jabalpur Bench, Central Administrative Tribunal as the applicant also similarly circumstanced like Mr. Francis Cecil and also for quashing and setting aside the proceedings of Special Review Committee constituted following the Judgement and Order of Jabalpur Bench, Central Administrative Tribunal as infirmity and irregularity remained to be continued. Moreover, the applicant's case was not reconsidered as in the manner prescribed by the Hon'ble Jabalpur Bench.

4. Limitation

The applicant begs to state that this application is filed within prescribed time period.

5. Jurisdiction

The applicants declare that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.


6. Facts of the case

6.1 That the applicant is a citizen of India as such he is entitled to all the rights and privileges guaranteed by the Constitution of India. The applicant was initially appointed as Sub-Assistant Supervisor in the year 1970.

Thereafter promoted in the post of Assistant Supervisor in 1978 again he was promoted to the Grade of Supervisor on 1st April 1987 in the Military Farm. He is now posted in the Military Farm, Dimapur since June/93.

6.2 That while the applicant was serving as Assistant Supervisor, he was entitled for promotion to the post of Supervisor in the recruitment year 1981 at the relevant time 3 years regular service in the cadre of Assistant Supervisor was required for promotion to the cadre of Supervisor plus passing of departmental intermediate course. The applicant was entitled for promotion since 1981 onwards. Be it stated that there was no statutory rules for promotion to the cadre of Supervisor and the applicant was not selected for the post of Supervisor although he was entitled and eligible for promotion.


6.3 That the applicant begs to state that in the year 1984 for the first time the Director, Military Farm have laid down certain defective and discriminatory guidelines for promotion to the cadre of Supervisor in pursuance of Department of Personnel & Administrative Reforms letter No. 22011/6/75-Estt (D) dtd. 30th Dec./78 para VI of the guidelines/criteria was issued vide Military Farms Directorate letter No. 25681/Q/MF-1 dated 29th August/84 where defective/discriminatory and arbitrary guidelines was prescribed for assessment in respect of executive staff for promotion to the higher grade. The applicant and other assistant Supervisors had preferred individual appeal against the defective/



discriminatory new policy/guidelines before the Deputy Director General, Military Farm. The appeal of the applicant was turned down by the Deputy Director General Military Farm. Be it stated that the applicant was considered for promotion in the cadre of Supervisor in the recruitment year 1984 but he was not selected due to defective/discriminatory and arbitrary selection process of the department and as a result 4 (four) Junior Assistant Supervisors superseded the applicant and they were promoted to the post of Supervisors in the recruitment year 1984. The applicant protested immediately thereafter for such illegal supersession due to defective/arbitrary selection process but to no result.


6.4 That thereafter Mr. Francis Cecil who was working as Asstt. Supervisor in the Military Farm had filed an application challenging the defective/discriminatory selection procedure and policy of selection introduced in the year 1984 vide Office Order dated 29.8.84 and also prayed for retrospective promotion with effect from 1984 recruitment year and also challenged the illegal supersession of juniors and select list dated 13.12.1982.

6.5 That Mr. Francis Cecil, had challenged the DPC which met on 26.4.1984 ~~being highly aggrieved~~ before the Hon'ble Jabalpur Bench, being highly aggrieved by the selection procedure and for non-inclusion of his name in the panel for promotion to the cadre of Supervisor in the Military Farm. The panel was declared vide letter No. 85681/Q/MF-1 dated 13.12.1984. The ~~XXXXXXXXXXXXXXXXXXXX~~



application was registered as O.A. No. 55/1986 before the Jabalpur Bench of the Central Administrative Tribunal. Mr. Francis Cecil have challenged the validity of the panel prepared by the DPC in the recruitment year 1984. The present official respondents have contested the case before the Jabalpur Bench and Hon'ble Jabalpur Bench after hearing the argument of both the sides have allowed the O.A. 55/86 directing the official respondents to hold Special Review Committee to go into the question of promotion to the post of Supervisors from the rank of Assistant Supervisors which was impugned in that original application on merits afresh in the light of the observations made therein and also directed to prepare a new panel. The relevant ~~portion~~ observation and direction contained in the Judgement and Order dated 24.12.87 passed in O.A. 55/86 is quoted hereunder :


"Consequently, for the reasons discussed we direct constitution of a Special Review Committee to go into the question of the promotion to the posts of Supervisor from the rank of Assistant Supervisors which impugned in this petition on merits afresh in the light of our observations and prepare a new panel. It is not necessary to revert any of the respondents pending the recommendations of the review D.P.C. However, if the Special Review D.P.C. on merits does not find any of the respondents fit for promotion they shall be reverted back to their former posts and the intervening period in respect of such



respondents treated as ad-hoc promotion. The case of the petitioner for promotion to the post of Supervisor will also be reviewed afresh. If he is considered by the Review Committee to be fit for promotion he would be promoted with effect from the date of the promotion of his next junior. The Special Review Committee should meet and process their recommendations as on the date of the Original DPC ignoring subsequent ACR's or development within three months of the date of communication of this Judgement.

There is no order as to costs".

From the above observation and direction of the Judgement and Order passed by the Hon'ble Jabalpur Bench on 24.12.8 in OA 55/86 it appears that the Hon'ble Tribunal had directed the Official Respondents to constitute a Special Review Committee to go into the question of promotion of Supervisors from the rank of Assistant Supervisors and there was a clear direction to prepare a new panel. But most surprisingly while implementing the Judgement and Order passed by the Jabalpur Bench the official responder although implemented the Judgement and Order but the same not done in the proper perspective in which the direction was given in that Judgement and Order as a result the present applicant who is similarly circumstanced like that Mr Francis Cecil was non considered in the review DPC whereas in the name of the implementation of Judgement and order of Hon'ble Jabalpur Bench they have simply



promoted Mr. Francis Cecil against in an existence vacancy with effect from 15.11.1984 vide part II order dated 4.7.88. Therefore it can be rightly said that the direction of the Jabalpur Bench was not implemented in the true sense and the respondents did **not** prepare a fresh panel. They have simply restricted the re-consideration to the extent of Mr. Francis Cecil only but the present applicant who is similarly circumstanced like Mr. Francis Cecil was not considered in the Special Review DPC though juniors of the present applicant continued to be in the panel of review DPC who were illegally superseded the present applicant in the matter of promotion to the cadre of supervisors. Therefore the findings/panel of the review DPC is liable to be set aside and quashed.

(X)

A copy of the
judgment and
order dated 24.12.87
is annexed as
measure 1A.

MS
9/3/98


6.6 That the applicant further begs to state that although a Special review committee was constituted following the Judgement and Order of Jabalpur Bench but no fresh panel was prepared in the light of the observation made in the judgement and order dated 22.12.87. Therefore the findings of the Special Review Committee is illegal, arbitrary and unfair and the same was not in conformity with the direction made therein the Judgement and order dated 24.12.87. Therefore the proceedings of the Special Review Committee is liable to be set aside and quashed.

6.7 That the Hon'ble Tribunal be pleased to direct the respondents to produce the minutes of the Special Review DPC for perusal of the Hon'ble Tribunal and also

for ascertaining whether the same has been done strictly in terms of the Judgement and Order passed in O.A. 55/86 and the minutes is also required for arriving at a fair decision in the instant case of the applicant for promotion to the post of Supervisor.

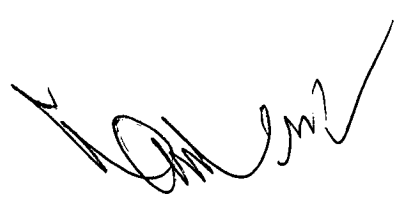
6.7 That the applicant begs to state that if the Special Review D.P.C. acted strictly in terms of the Judgement and Order dated 24.12.87 in that event there would be a fresh panel and there was every possibility of inclusion of the name of the present applicant in the fresh select list of 1984, but due to non-implementation of the Judgement and Order dated 24.12.87 in the manner, it was prescribed/observed by the Hon'ble Tribunal of Jabalpur Bench, as a result the juniors, of the applicant namely respondents No. 4, 5, 6 and 7 who were illegally superseded in the DPC which met on 26.4.1984, remain constituted to be in the select list of Special Review DPC as because no fresh panel was prepared by the Special Review Committee, constituted following the Judgement and Order dated 24.12.87 of the Hon'ble Jabalpur Bench. Therefore the illegal proceedings of the Special Review Committee be set aside and quashed.

6.8 That the applicant further begs to state that it would be evident from the promotion Part II Order dated 4.7.88 that no fresh panel was drawn and published by the respondents and Mr. Francis Cecil was promoted in the cadre of Supervisor simply without holding any review DPC in total violation of the direction of the Hon'ble CAT, Jabalpur Bench.



6.9 That in the year 1985 there were vacancies but no D.P.C. was convened in the recruitment year 1985, however in the recruitment year 1986 D.P.C. was convened for filling up of 11 vacancies including and clubbing up the vacancies of 1985 recruitment year which was not permitted by the existing recruitment rules of the Central Govt. However, the applicant was selected and promoted in the recruitment year 1986 to the post of Supervisor. He was placed in the serial No. 9 of the select list of the 1986 recruitment year but surprisingly 2 (two) juniors respondents Nos. 8 & 9 superseded the applicant and they were placed above the applicant in the select list as well as in the seniority list in the cadre of Supervisors due to defective/discriminatory selection policy. Be it stated that applicant was also superseded illegally in the recruitment year 1984 by the Respondent Nos. 4,5,6,7, who were far junior to the applicant in the cadre of Assistant Supervisor as a result of introduction of defective, discriminatory criteria of promotion and the same thing was repeated in the proceeding of the DPC held in the recruitment year 1986 of Supervisor and the same is also liable to be set aside and quashed.

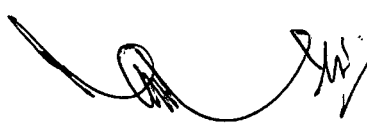
The Hon'ble Tribunal be pleased to direct the ~~Exhibits~~ official respondents to produce the minutes of the DPC for the year 1986 for perusal of the Hon'ble Tribunal.



6.10 That the petitioner further begs to state that none of the private respondents 4 to 9 are distinctly superior to that of the present applicant if evaluation of the comparative merit is strictly made on the basis of Confidential Report but the same was not done strictly in the proceedings of the D.P.C. in the year 1984 as a result the applicant was excluded from the panel of candidates in the year 1984 for the post of Supervisor and it is categorically stated that the D.P.C. did not act fairly and there are lot of infirmity and irregularity in the proceedings of DPC in the year 1984 and the same irregularity and infirmity continued even after special review DPC. Therefore, proceedings of review DPC is liable to be set aside and quashed.

In the circumstances stated above, the case of the applicant requires to be considered by special review DPC to go into the question of promotion to the post of Supervisor from the rank of Assistant Supervisor with effect from 1984 and as regard other claims of the applicant, and as regard the claim of the applicant's seniority above the private respondents.

6.11 That the applicant surprisingly came to know in the month of December, 1992 that Mr. Francis Cecil was allowed retrospective promotion with effect from recruitment year 1984 following the decision of the Central Administrative Tribunal, Jabalpur Bench on his application for entitlement of retrospective promotion with effect from 1984. Be it stated that the applicant actually came to know about the success of the aforesaid case of Mr. Francis



Cecil when he saw the office letter No. 165/A/28/92/1/A dated 28th Oct./92 wherein the willingness of the Supervisors were called for advance/Admin. course training at Meerut Cantonment where Supervisors of Military Farms were called for training on seniority basis. Therefore, in the letter dated 28.10.92 the name of Mr. Francis Cecil, Supervisor appeared above the applicant in serial No. 11 although Mr. Cecil actually promoted to a later date after the promotion of the present applicant by virtue of the Hon'ble Tribunal's order. Thereafter the applicant came to know all about the Court case and retrospective promotion of Mr. Cecil. Mr. Cecil who was placed above the applicant and along with those juniors including the present private Respondent Nos. 4-9 those who superded him illegally in the cadre of Supervisor in the recruitment year 1984 and 1986. Therefore, the present applicant who is similarly circumstanced like that of Mr. Francis Cecil, preferred an appeal/representation dated 8.4.93 for his retrospective promotion and seniority above the respondent Nos. 4-9 but the said representation of the ~~xxxxx~~ application was rejected by the Respondent No. 3 under Office letter No. 85684/MF-2 dated 18.6.93 which was communicated to the applicant vide letter No. 505/2/HS dated 2.7.93. The Respondent in their letter dated 18th June/93, it is stated that Mr. Cecil has been rightly placed senior to the present applicant by special review DPC. although Mr. Cecil promoted after the promotion of the applicant to the cadre of Supervisor. Panel of Asst



Supervisors who are promoted to the grade of Supervisor in the recruitment year 1984 and 1986 respectively are enclosed for perusal of the Hon'ble Court.

Copies of the letter dtd: 20.10.92 representation dated 9.4.93 reply letter dtd. 18.6.93 and 2.7.93 and panel of recruitment year 1984 and 1986 are annexed as Annexure - 2,3,4,5,6,7 respectively.

6.12. That the rejection of the claim of the applicant as regard promotion and seniority is made without application of mind. The applicant claimed seniority and promotion over the Respondent No. 4-9 for which he is legally entitled as because Mr. Francis Cecil was placed along with those Respondent Nos 4-9, therefore, the applicant also entitled retrospective promotion and seniority w.e.f. recruitment year 1984 as he was equally circumstanced like that of Mr. F. Cecil. Be it stated that other Supervisors who were illegally superseded also allowed retrospective promotion and seniority following the court order. In view of the facts and circumstances stated above the applicant also entitled to retrospective promotion and seniority with effect from recruitment year 1984 by special review DPC.

6.13 That the applicant begs to state that it would be evident from the extract of the seniority list correct upto 31.12.1981 in the grade of Asstt. Supervisor in Military Farm where seniority position of the applicant as well as of Respondent Nos. 4-9 are placed as follows :

Sl.No. Name Seniority position as on 31.12.1981 in the Gr. of Asstt. Supervisor in Military Farm

1.	Sri N.K.K.Nair (Applicant)	67
2.	Sri R.N.Shukla (Respondent No. 4)	69
3.	Sri O.M.Prakash (Respondent No. 5)	72
4.	Sri S.P.Banerjee (Respon. No. 6)	73
5.	Sri Sumati Narayan Pandey (Res. No. 7)	71
6.	Sri Brahm Dutt (Respon. No. 8)	76
7.	Sri Hazarilal Dhankar (Respon. 9)	93

Be it stated that in between 1981 and 1987 no other seniority list was published for the post of Asstt. Supervisor of the Military Farm. Therefore the applicant relied upon the 1981 seniority list of Asstt. Supervisor. All the respondent Nos. 4 to 9 therefore have illegally superseded the applicant in the cadre of Supervisor due to wrong adoption of method and procedure of selection and therefore, the DPC proceedings cannot be sustained in the eye of law.

6.14 That your applicant preferred representation before the respondents for his promotion from the date of his juniors promotion but the same was rejected vide letter dated 18.6.93.

6.15 That the applicant begs to state that he had earlier filed O.A. No. 18/94 which was withdrawn on 18/94 with the liberty to file fresh application.

6.15 That this application is ^{made} ~~filed~~ bonafide and for the cause of justice.

~~XXXXXXXXXXXX~~

8. Reliefs sought for :


under the facts and circumstances the applicant prays for the following reliefs :-

1. That the proceedings of the special review committee which was constituted for promotion from the post of Assistant Supervisor to the post of Supervisor but did not act strictly in terms of the Judgement and Order dated 24.12.1987 in O.A. 55/86 and the same be set aside and quashed and further be directed the respondents to hold special review DPC in the light of the Judgement and Order dated 24.12.87 to consider the case of the applicant and for preparation of a fresh panel.
2. That the applicant be promoted with retrospective effect from the date of his juniors promotion with all consequential service benefits and seniority by holding fresh special review DPC in the light of the Judgement and order dt. 24.12.87.
3. That the applicant be declared senior above the private respondent Nos. 4-9 in the cadre of Supervisors.
4. That the Office letter No. 85684/Q/MF-2 dated 18.6.93 and No. 505/2/HS dated 02.7.93 be set aside and quashed.
5. Cost of the case.

The above prayers are made on the following amongst other -

- G R O U N D S -

1. For that no fresh panel was prepared by the respondents in terms of the Judgement and Order dated 24.12.87 passed in O.A. 55/86 by the Hon'ble Jabalpur Bench.
2. For that judgement and order dated 24.12.87 was not strictly implemented, by the respondents in terms of the direction and observation made in the Judgement and order dated 24.12.87.
3. For that the proceedings of the Special review committee not drawn up any fresh panel as per the direction of the Hon'ble Jabalpur Bench, Central Administrative Tribunal.
4. For that the applicant also having similar grading like that of Mr. Francis Cecil, therefore entitled to be promoted with retrospective effect, in the fact and circumstances.
5. For that the applicant is similarly circumstanced like that of Mr Francis Cecil and therefore legally entitled to be promoted by special review DPC. as as been done in the case of Mr. Cecil following the Hon'ble Cat, Jabalpur Bench decision.

6. For that the applicant was illegally superseded in the matter of promotion in the cadre of Supervisor due to arbitrary/defective discriminatory promotion policy/guidelines which was introduced in the recruitment year 1984 vide office order dtd. 29.8.84.
 7. For that the applicant had preferred an appeal before the Respondents for retrospective promotion and seniority but the same was rejected without application of mind.
 8. For that the applicant cannot be denied the retrospective promotional benefit on the ground that the applicant did not approach the Hon'ble Tribunal although he is similarly circumstanced like that of Mr. F. Cecil.
 9. For that other Supervisors who were illegally superseded by juniors in the recruitment year 1984 and 1986 were also allowed retrospective promotion by the Respondent following Tribunal orders.
 10. For that the fundamental right of the applicant has been infringed by non-promoting the applicant with effect from 1984 recruitment year.
 11. For that the applicant was senior to the cadre of Asstt. Supervisor than the Private Respondents Nos. 4-9.
 12. That Mr. F. Cecil was shown along the juniors Respondent No. 4-9 and also above the applicant although subsequently promoted following a Court order.
- 

13. For that non-promotion of the applicant with retrospective effect is violative of Article 14 of the Constitution of India.

8. Interim relief prayed for :-

During the pendency of the case the applicant prays for the following interim reliefs :

1. That the Respondent Nos. 4-9 should not be promoted in the next higher grade on the basis of present seniority in the cadre of Supervisor till final disposal of this application.

The above interim relief is prayed on the ground explained in the para - 7 of the application.

9. That the applicant has not filed any other application in any other Court/Tribunal.

10. That the applicant declares that all the remedy available have been exhausted by him. This Hon'ble Tribunal is the only remedy.


11. Particulars of Postal Order

Postal Order No. : 327 309
Date of Issue : 14-9-95
Issued from : G.P.O., Guwahati.
Payable at : G.P.O., Guwahati.

12. An Index of documents is enclosed.

13. Documents enclosed :

As per Index.



V E R I F I C A T I O N

I, Shri N. Krishnan Kutty, Nair, Son of Late K. Narayan Pillai, presently working as Supervisor in the Military Farm, Dimapur, do hereby declare and verify that the statements made in this application are true to my knowledge and belief and I have not suppressed any material facts.

Date : 14.7.95

Place : Qababath


(N. KRISHNAN KUTTY NAIR
SIGNATURE

ANNEXURE - 1

Tele : 6811/242

(RF-1 Insur No. 8)

Sainya Farms Nirdeshalaya (RF-1)

Quartermaster General Shaksha

Sena Mukhyalaya.

Military Farms Directorate (RF-1)

Quartermaster General's Branch

Army Headquarters, West, Block,

R.K.Puram

New Delhi-110066

85681/Q/RF-1

29 Aug 84

The DDSMP

HQ Southern Command

QHQ Eastern Command

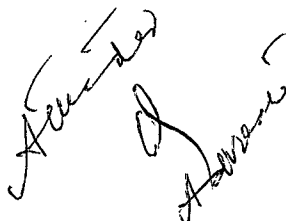
HQ Western Command,

HQ Central Command

HQ Northern Command

DEPARTMENTAL PROMOTION COMMITTEE : MILITARY FARMS.

1. Departmental Promotion Committee in Military Farms are held from time to time as per requirement in respect of Executive as well as Ministerial cadre.
2. In the past no act procedure was enunciated in the proceedings. As per the past record it is seen that the last 5 years Annual Confidential Reports were considered and the grading (Very Good, Good, Average, Poor etc.) of the Head of Department only in each of them was reckoned for the final assessment.
2. As per the orders on the subject the conduct of DPC. is to be in accordance with the Deptt. of Personnel & Administrative Reforms letter No. 22011/6/75-Estt(D) dated 30 Dec. 76 Para VI of which states -



"1. Each Departmental Promotion Committee should decide its own method and procedure for objective assessment of the suitability of the candidates. Ordinarily a personal interview should not be regarded as necessary and the panel for promotion/confirmation may be drawn up on the basis of assessment of the record of work and conduct of the officer concerned".

4. Since no clear procedure exists at present, it has been decided to lay down the following procedure for selection posts :-

a) All casual/interim confidential reports earned in the existing rank of the eligible candidates will be ~~considered~~. This would give an insight into the entire profile of the individual in the various appointments held by him in the rank.

b) Equal weightage will be given to the reports of Initiating Officer, Reviewing Officer and the Head of the Department. In this connection please refer to RF Records, Delhi ~~XXXXX~~ Cant. letter No. 102/125/A-1 dated 19 Jun 84 in which initiating Officer, Reviewing Officer, Senior Reviewing Officer are all to endorse grading individually.

Assessment in respect of Executing Staff :

a) Since Military Farms are a production oriented organisation and order to service incentive for working in production sections, all reports will be evaluated as per the sliding scale given below, for the performance of the candidates in the various sections of the farm during their service in the rank.

[Handwritten signatures]

		Cattleyard (Points allotted)	Cultivation points allotted)	Dairy/Syd/HM/M (Points allotted)
i.	Outstanding	10	7.5	5
ii.	Very Good	8	6	4
iii.	Good	6	4.5	3
iv.	Average	4	3	2
v.	Poor	2	1.5	1
vi.	Very Poor	00	00	00

Reports in Cattleyard and Cultivation carry 2 and 1 and half times the weightage compared to the other sections.

b) An arithmetic average of the total points secured will be arrived at finally, for placing the candidates in the merit list.

c) After drawing up the merit list they will be classified into five categories 'Outstanding', 'Very Good', 'Good', 'Average' and Below Average'. For example, all candidates securing above 5.0 points will be 'Outstanding', between 4.5 upto '5.0 points would be 'Very Good' and between 4.0 and upto 4.5 'Good and so on. This range could however vary in accordance with the points secured by the candidates. Sometimes the level would be higher and sometimes lower. The seniority of the candidates within a particular category will be as per that in the existing rank. This procedure is in accordance with the instructions given at para IV of the DR/AB letter No. 22011/6/75-Estt(D) dated 30 Dec. 76.

d) A final panel for promotion will then be made out.

e) DPC will record the actual point classification adopted in DPC. proceedings for future records.

Sanjay
Advanta

-4-

6. The above procedure will bring in uniformity and offered justice and fair play, and provide incentive for improving productivity at farms.

*Syd - Stackyard

@HH - Hay Harvesting

£Misc- Miscellaneous

7. Attention of all concerned will be drawn to criteria for promotion as laid down vide this HQ letter No. 85682/2/Q/RF-1 dated 21 Mar 84 & as amplified vide No. 85682/1/Q/RF-1 dated 25 Jun 54.

8. Assessment in respect of Ministerial staff. - As far as the selection posts of Ministerial staff are concerned the procedure will be similar to that of Executive staff but no sliding scale for working in different sections will be applied. All their reports in the rank will be evaluated without any consideration for the sections in which they have served, excepting that the criteria reports as specified in our letter No. 8562/2/Q/RF-1 dated 21 Mar 54 will be a mandatory requirement for promotion.

9. In all non-selection posts the consideration will be seniority cum fitness as per current orders.

10. The above procedure will be given wide publicity, so that all the individuals serving in military Farms are aware of the procedure.

11. Please acknowledge.

Sd/- (Dilbagh Singh)
Brig.
Director of Military
Farm

Copy to :

All Military Farms/Deptts. R.F. Records, Delhi Cantt.-10.

Internal

MF-2, MF-3, MF-4, MF-5, DKF Folder, LLF.

[Handwritten signatures]

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. 55/1986

Francis Cecil - Applicant

versus

Union of India & Others - Respondents

Counsel

Shri C.L.Kotecha - For the Petitioner
Shri Anoop Choudhary - For the Respondents

CORAM

Hon'ble Shri S.K.S. Chib Vice-Chairman
Hon'ble Shri K.B.Khare Member (J)

JUDGEMENT

(passed on this the 24th day of December 1987)

* * * * *

The petitioner Shri Francis Cecil an Assistant Supervisor of Military Farm, Jabalpur filed an application dated 26.5.86 under Section 19 of the Central Administrative Act 1985 to this Tribunal praying for quashing the promotion orders of respondent Nos. 3 to 13 or in the alternative directing the respondents Nos. 1 and 2 to consider the petitioner for promotion to the post of Supervisor from the date any of his juniors was promoted

2. The facts of the case are that the petitioner was appointed as Sub-Assistant Supervisor in the Military Farm vide order issued by the OIC Military Farm records, Meerut Catt. on 27.5.63 (Annexure-1). After the petitioner had passed the requisite examination in 1967 he was confirmed on the post of Sub-Assistant Supervisor. The

-26-

petitioner was promoted to the post of Assistant Supervisor, Military Farm on 21.12.74. The petitioner also claims which was a requisite qualification for being considered, eligible for promotion to the post of Supervisor and on 1.2.1979 he was confirmed on the post of Assistant Supervisor. He was allowed to cross the Efficiency Bar on the due date with effect from December, 1980. It has been claimed by the petitioner that during the entire period of his service of about 23 years nothing adverse against him was communicated and all his confidential reports were apparently good. No adverse remarks have been communicated to the petitioner even in the last five years. It is alleged that the respondents 3 to 13 are all junior to the petitioner according to the ~~dates~~ dates of appointment on promotion to the higher posts as well as with reference to the dates of confirmation on the post of Assistant Supervisor. According to the 1982 seniority list the name of the petitioner is claimed to be at Serial.No. 39 while the names of the respondents Nos. 3 to 13 are below the name of the petitioner vide Annexure-2.

3. In 1984, a Departmental Promotion Committee met to consider the names of Assistant Supervisors for empanelment for promotion to the post of Supervisor and the D.P.C. prepared a panel of about 15 persons vide Annexure-3 but he was not considered. Out of the 15 persons on the panel, 13 are junior to the petitioner.

As his name had been unjustifiably omitted from the panel, the petitioner states that he sent a legal notice through his counsel on 14.8.84 to the Secretary, Ministry of Defence, alleging favouritism in the empanelment of names by the D.P.C. (Annexure-4). After issue of the notice the responde

No.2 had another panel prepared in 1985, in which the names of two of the petitioner's Malhotra were omitted and the name of two of the petitioner's Malhotra were ~~omitted~~ and the name of two seniors were added. A copy of this revised panel is said to be annexure-5, but 11 persons are alleged to be junior. It is alleged that even in the revised panel his name was not considered by the D.P.C. due to annoyance by respondent No. 2 as the petitioner had served a legal notice. It is also alleged that the D.P.C. did not have any formal meeting.

The petitioner further claims that according to the Military Farm is (Group 'C' Civilian Posts) Recruitment Rules 1978 an Assistant Supervisor Farms who has put in three years service and qualified in Military Farms Intermediate Course is eligible for promotion while he had put in 11 year service as Assistant Supervisor, Farms and qualified Intermediate course as far back as in 1977. The petitioner alleges that according to the Recruitment Rules the Group 'C' D.P.C was not constituted comprising of 5 members.

It has also been alleged that inspite of the disciplinary proceedings against S/Shri Sumati Narayan Pande (respondent No. 10), Om Prakash (respondent No. 11) and S.B. Bajpayee (respondent No. 12) they were promoted. It is also alleged that S/Shri Jogi Ram Rathe, Hussain Miyan and Rajendra Nath Shukla (respondents Nos. 3, 4 & 9 respectively) were relatives of some officials and they were promoted due to favouritism.

The applicant also claims that he submitted representation to the President of India on 5.10.84 (Annexure-6) which was followed up by reminders, the last one being of 6.3.86 and 10.5.86 but no action has been taken.

28

42
4

The petitioner also claims that he had received an application letter dated 20.2.86 from the Dy. Director of Military Farms, HQ, Central Command, Lucknow, (Annexure-8) for the good work done by the petitioner as in-charge cattle yard HHB.

4. In the respondents return dated 30.3.87 it has been contended that under the Recruitment Rules for the post of Supervisor Military Farms (SRO 363 dated 1.12.1978) the post of Supervisor is filled by promotion through Selection from the grade of Assistant Supervisor by a D.P.C. with DMF (now DDGMF) as Chairman and is not filled on the basis of seniority cum-fitness. The procedure adopted by the Departmental Promotion Committee is governed by Ministry of Home Affairs letter No. 22011/6/75-estt(D) dated 30th ^{December} ~~September~~ 1976 which is reproduced as CPRO 123/77. According to this, each Departmental Promotion Committee should decide its own method and procedure for objective assessment of the suitability of the candidates and the field of choice is extended to 3 times the number of vacancies. The merit classification is done in terms of 'outstanding' 'Very Good' 'Good' etc. on the basis of merit as assessed from the confidential records. The DPC which considered names for the post of Supervisor met on 26th April 1984 but the petitioner did not find inclusion in the panel as his over-all grading was low. The case of the petitioner was also reviewed by the DPC which met in December 1984 but he was again not included in the panel for the same reason. The respondents have denied that certain officials among the respondents who were promoted were under disciplinary action on the date of holding the D.P.C. The petitioner was otherwise eligible for being considered and the allegation on behalf of the petitioner that his name was not considered by the DPC is incorrect.

29
In arguments by the learned standing counsel on behalf of the respondents it was stressed that the petitioner was graded as 'good' while respondents were grade as 'very good' although junior and hence the petitioner was superseded in spite of his seniority. There was nothing adverse against the petitioner as such and hence no adverse remarks were communicated but that alone is not sufficient for a selection on the principle of merit.

In the petitioner's rejoinder dated 16.6.87 it has been contended that Recruitment Rules were framed under Article 309 of the Constitution vide SRO 363 dated 1st Dec. 1978 and thereafter no statutory rules were framed. In the Notification of December 1978. SRO 363 does not provide that the DPC can evolve its own procedure and, therefore, the instructions issued in circular of 30th December 1976 are not applicable to his case. Although in the rejoinder it is not specifically denied that the recruitment to the post was governed by the principle of merit-cum-seniority ~~it has been contended that seniority~~ ~~it has been contended that seniority~~ should have been given greater weightage and ~~as~~ as there was no adverse remarks against him he could not have been superseded by his juniors. It is contended that grading according to classification like 'outstanding' 'Very Good' and 'Good' is violative of statutory rules. It is also contended that respondents have not observed Army Instruction No. 178 dated 2nd July 1955 (Annexure-9) for writing Confidential reports.

The learned counsel for the petitioner has cited the decision of Allahabad High Court in the case of Hari Mohanlal Vs. Satya Deo Singh and Others (Special Appeal No. 6 of 1974) decided on 12th March 74) to show that while evaluating the

30

the comparative merits of the officers on the basis of their C.R. record before one officer is grade as 'outstanding' or 'very good' or 'good' the merit of one class of officer should be distinctly superior to that of the others. If some one is somewhat better than the other that will not make that official of outstanding merit as compared to the others. There should be such difference that one can say that though the junior is of outstanding merit the senior is not. The case of Gurdial Singh Fijji Vs. State of Punjab and Others decided by Punjab and Haryana High Court in Civil Writ No. 3315 of 1973, on 19th August 1974 has also been cited in support of the contention of the petitioner that once he had been allowed to cross the Efficiency Bar in December 1980 any indifferent record or adverse entry prior to that date could not be taken into consideration by a subsequent D.P.C.

5. We have considered the contentions of the parties and their learned counsel.

The relevant Recruitment Rules S.R.O 363 vide notification of 1.12.1978 have since been produced. The contention of the respondents that the promotion to the post of Supervisor from Assistant Supervisor is by selection i.e. on the principle of merit-cum-seniority and not seniority-cum-merit is found to be correct and has also not been seriously disputed and has to be accepted as such. As regards the petitioner's contention that the DPC cannot evolve their own procedure this has to be read in the context of Govt. of India's decision XV (6) (2) of Appendix 29 of C.S.R.'s (Civil Service Regulation) and the petitioner's contention that no such grading can be done is also incorrect.

We might also add that in terms of the recently reported decision of the Supreme Court in the case of State Bank of India Vs. Mynuddin (AIR 1987 SC 1989) it is not within the purview of this Tribunal or Court to finally arrive at a judgement of our own in regard to relative merits and gradation assessment of the officers concerned by the D.P.C. unless it is vitiated by malafides or basic infirmities. This is best left to a processional committee like that of D.P.C. A copy of the minutes of the D.P.C. held on 26th & 27th April 1984 has been produced. The contention of the petitioner in his application that five officers did not constitute the DPC as required under the schedule to SRO 363 also appears incorrect as the proceedings have been signed by 5 officers.

6. In the light of the above we have ~~this~~, however, to see that the DPC has applied their judgement fairly and objectively and whether there is any other infirmity or irregularity in the conduct of their proceedings. ~~It is in this context the case of their proceedings.~~ It is in this context the case of Hari Mohanlal Vs. Satya Dev Singh (Supra) cited by the learned counsel for the petitioner is relevant and pertinent. It is also true that the older record of the officer is not so material as his recent record and in the case of the petitioner any adverse material before he was cleared for the Efficiency Bar does not have that much or material importance.

ACR dossiers of the petitioner and 11 other respondents have been produced and we have gone through them. Petitioner's ACR's during recent years are 'average' but his 1982 report and 1981 report are 'very good'. There is no adverse remark. Respondent No. 3 Jogi Ram Rathe's over all record is 'very good'. Respondent No. 4 Hussain Miyan's over all C.R. of recent years can be rated between 'good' and

'very good' although there is nothing adverse and the same remarks as in the case of respondent No. 4 Hussain Miyan are here applicable as well. ACR of respondent No. 6 Naresh Chandra Choopra shows that generally he has been graded as 'average' or 'good' in recent years except the report for 1982 in which he has been graded as 'Very Good'. There is also an adverse remark. Overall in comparison to the ACR dossier of the petitioner this is not superior or of a distinctly better class, in fact, one might hold it to be slightly inferior to that of the petitioner. Respondent No. Kuldeep Kumar has been generally graded as 'good' and his overall record in recent years cannot be held to be distinctly superior to that of the petitioner. In the ACR dossier of respondent No. 8 Jai Bir Singh he has been generally graded as 'very good' and sometimes as 'average' but over all his C.R. could be said to be better than that of the petitioner. Respondent No. 9 Rajendra Nath Shukla's ACR ranges between 'good' and 'average' and cannot be said to be distinctly superior to that of the petitioner, although there is nothing adverse. Respondent No. 10 Sumati Narayan Pande's ACR in the recent years are generally of the 'average' category and in 1983 disciplinary action was also taken against him. As a class he would be in fact appear to be lower in merit compared to that of the petitioner. Respondent No. 11 Om Prakash ACR shows that in recent years he has been generally graded as 'good' or 'average'. In 1984 he was also awarded 'Censure' after a departmental enquiry was held. His overall CR in recent years is certainly not superior to that of the petitioner and would in fact appear to be inferior. Respondent No. 12 S.B. Bajpai's ACR in recent years can be generally rated as 'Very good'. His C.R. would prima facie be superior to that of the petitioner. Respondent No. 13 Phagun Das ACR's in recent

in recent years has generally been of 'very good' category except that in the year 1984 for part year he was rated as 'average'.

7. It will be seen from the brief analysis in the preceding paragraph that the contention of the learned counsel for the respondents that all the junior respondents who were promoted were categorised as 'very Good' and their performance was distinctly superior to that of the petitioner is not sustained from perusal of the ACR's as well as the D.P.C. proceedings. Some of these respondents like Narottam Rai, Naresh, Chandra Chopra, Kuldeep Kumar, Rajendra Nath Shukla, Jai Bir Singh, Sumati Narayan Panda, Om Prakash, S.B. Bajpai have been graded by the DPC as 'good'. Even in terms of nomenclature if the grading 'good' is interpreted as 'Very good' and 'average' as 'good' then also the CR's do not tally with the assessment in the minutes of the DPC proceedings of 26th & 27th April, 1984 except for the case of the Respondent Jogi Ram Rathee who can be considered to be 'very good' while respondents Narottam Rai, Phagun Das, Jai Bir Singh and Hussain Miyan and S.B. Bajpai appear to be ranging between 'good' and 'very good' while the C.R.'s of Sumati Narayan Panda and Om Prakash appear to be somewhat inferior to that of the petitioner's C.R. while those of Narottam Rai, Naresh Chandra Chopra, Kuldeep Kumar, Hussain Miyan and Rajendra Nath Shukla are almost comparable. The grading nomenclature adopted by the DPC is also not the standard one of 'Outstanding' 'Very Good' 'Good' and Unfit etc. as laid down in Article 29 of CSR's (Vol I) read with para VI of Appendix 29 of CSR's (Vol II) according to which there is no categorisation of 'Average or 'Below Average'.

We hasten to add that we do not wish the above observations to be treated as an authoritative final assessment of the performance of the petitioner and respondents but certainly we would like to observe that some of the respondents have been promoted while the petitioner has not been promoted although the CR record of those respondents is not distinctly of a higher class and superior in terms of the decision of the Allahabad High Court in the case of Hari Mohanlal (supra) with which view we are in agreement.

8. Under these circumstances, the selections consequent to the DPC proceedings of 26th and 27th April 1984 cannot be upheld as the proceedings suffer from basic infirmities for reasons mentioned above. The proceedings of the review DPC admitted by respondents to have been held in December, 1984 (not 1985) have not been produced. If their conclusions are based on similar assessment our observations would be applicable to those also.

9. Consequently, for the reasons discussed we direct constitution of a special Review Committee to go into the question of the promotion to the posts of Supervisor from the rank of Asstt. Supervisors which are impugned in this petition on merits afresh in the light of our observations and prepare a new panel. It is not necessary to revert any of the respondents pending the recommendations of the review D.P.C. However, if the Special Review D.P.C. on merits does not find any of the respondents fit for promotion they shall be reverted back to their former posts and the intervening period in respect of such respondents treated

35

as adhoc promotion. The case of the petitioner for promotion to the post of Supervisor will also be reviewed afresh. If he is considered by the Review Committee to be fit for promotion he would be promoted with effect from the date of the promotion of his next junior. The special Review Committee should meet and process their recommendations as on the date of the original D.P.C. ignoring subsequent ACR's or development within three months of the date of communication of this Judgement.

There is no order as to costs.

Sd/- K.B. Khare
Member (J)

Sd/- S.K.S. Chib
Vice Chairman

36
25

ANNEXURE - 2

Tele : 2291781

OF IMMEDIATE

Saanya Farms Abhilekh
Military Farms Records
Delhi Cantt. 110010

No. 165/A/28/92/1/A-2

28 Oct. 92

Officer in-charge
Military Far/Depot
Guwahati

ADVANCE/ADMN. COURSE SERIAL NO.W/28/92, FROM 14 DEC 92
TO 12 MAR 93 AT MILITARY FARMS SCHOOL & RESEARCH CENTRE
MEERUT CANTT.

1. Supervisors as per Appendix 'A' have not previously attended Advance/Admin Course are hereby detailed to attend the above course.
2. The selection has been made in accordance with their seniority. All detailed candidates will report to Commandant Military Farms School & Research Centre, Meerut cantt on 13 Dec 92 (Sunday) positively. Willingness and unwillingness certificates of the candidates both detailed and reserved are required by this office by 15 Nov. 92.
3. TA/DA will be admissible to the individuals detailed to attend the course for first time only.
4. If any one of the above supervisors is required in connection with any disciplinary case (as accused or witness) approval of DDG MF Army HQ will be obtained for not sending him on course.
5. Complete instructions for conducting of the course will be issued by Comdt. MF School & Res Centre, Meerut Cantt. Attention of all students will be drawn to the joining instructions given in Army Order No. 549/48 for strict compliance before they are relieved. They will take with them the following :-

Amr
2
Amr

Amr

- (a) Movement order showing casual leave already availed by the individual
- (b) PT and Sports Kit.
- (c) Mosquito net

6. Supervisors listed in Appendix 'A' (Failures) to this letter who have attended Advance/Admn course and failed in the past, can be allowed to attend the course/appear in whose examination or in one/two subjects in which they failed previously, at their own expenses by availing leave due to them. Please obtain their written willingness to appear in the whole examination or to attend the course or not willing to attend this course at their own expense ~~or not~~ ~~willing to attend this course at their own expense or not~~ as the case may be, and forward to this office by 15 Nov 92 as per specimen attached as per Appendix 'B' to this letter.

7. The individuals vide para 6 above who wish to attend the course/appear in the whole examination will not be despatched to MF School and Research Centre, Meerut Cantt until further orders are issued by this Office after receipt of their willingness certificates.

8. All candidates detailed for the course as per Appendix 'A' attended will be despatched to attend the course and so representation whatsoever will be entertained. Please ensure that their movement order reach this office by 17 DEC 92 the latest.

9. Please acknowledge.

Sd/- Gurumukh Singh
Major
Sr. Records Officer
for OIC Mil Farms Records

Advised
of
Answer

W. H. H.

38 52
27

Appendix 'A' to MF Records

Letter No. 166/A/28/92/1/A-2 dated 28 Oct.92.

ADVANCE/ADMIN COURSE SERIAL NO. A/28/92 : FROM 14 DEC 92 TO 12 MAR 92 AT MILITARY FARMS SCHOOL & RESEARCH CENTRE MEERUT CANTT.

DETAILED

SUPERVISORS

Sl.No.	Ranks, Name & No.	Whether SC/ST	Name of Farms/Dept
1.	Supr Hari Chand Sharma (8060410)	-	MF Bengdubi
2.	Supr Vinod Kumar Bajaj (8060404)	-	MF Lucknow
3.	Supr Sohan Pal Singh (8060323)	-	MF Guwahati
4.	Supr Dharam Dev Parshad (8060683)	ST	MF Pimpri
5.	Supr Pawan Kumar Sharma (8060468)	-	MF Jabalpur/Misamar
6.	Supr Shri Pal Singh (8060299)	-	MF Meerut
7.	Supr Kamal Kishor Sharma (8061118)	-	MF Pimpri
8.	Supr Braj Nandan Singh (8060606)	-	MF Dhanapur
9.	Supr Ved Ram (8060500)	SC	MF Tezpur (Misamari)
10.	Supr Monohal Lal Anand (8060466)	-	MF Tezpur
11.	Supr Francis Cecil (8060353)	-	MF Bhopal/Allahabad
12.	Supr Sumati Narnie Pandey (8059932)	-	MF Lucknow/GRTU Baiwala
13.	Supr S.B. Bajpai (8060581)	-	MF Jablapur
14.	Supr Phagan Dass (8060648)	SC	MF Pimpri
15.	Supr Bajinder Pal Singh (8060407)	-	MF Birdhanthuri
16.	Supr Narendra Singh Yadav (8060292)	-	MF Gualior
17.	Supr Banguraj Singh (8060488)	-	MF Kamptee
18.	Supr Ramashrey Chak (8060309)	SC	MF Guwahati
19.	Supr N. Krishnan Kutty Nair (8060633)	-	KBS Hisar
20.	Supr Baldev Urkuda Gawali (8060851)	SC	MF Jablapur
21.	Supr. Das Raj (8060851)	ST	MF Belgaum

Handwritten signature and initials

RESERVE

SUPERVISOR

1.	Supr Nand Kishore Sharma (8060710)	-	MFD Saugor
2.	Supr Anil Sehgal (8060710)	-	MFD Jodhpur
3.	Supr Vinay Kr. Jain (8060650)	-	MF Pimpri
4.	Supr Santosh Kumar Tripathi (8060714)	-	MF Lucknow
5.	Supr Ashok Kr. Yadav (8060720)	-	YSF Manjri
6.	Supr Madan Mohan Gohri (8060750)	-	MF Bangalore
7.	Supr. Dhan Parkash (7326707)	-	MFD Alwar
8.	Supr Ved Prakash Mittal (8060375)	-	MF Pathankot
9.	Supr Subash Chandra Malhotra (8060351)	-	MF Guwalior
10.	Supr Laxmi Singh (8060414)	-	GRTU Raiwala/MF Ahmednagar
11.	Supr Kulbir Singh (8060888)	-	MF Jammu
12.	Supr Anil Kr. Sharma (8061058)	-	MF Binnaguri
13.	Supr Ashok Kr. Kapoor (8060603)	-	MF Deolali
14.	Supr Kedar Datt Joshi (8060603)	-	MF Show
15.	Supr Vishram Meena (8060941)	ST	MF Bareilly
16.	Supr JD Alexander (8060590)	-	MF Meerut
17.	Supr Hargtna Singh Yadav (8060640)	-	MF Yol.
18.	Supr P. Mathivan (8060789)	SC	MF Shillong/Tezpur
19.	Supr Panna Lal (8060597)	-	MF Allahabad (Bargarh)
20.	Supr Krishna Chhetri (Warjri (8060884)	ST	MF Jalandhar Cantt.

FAILURES

SUPERVISORS

Sl. No.	Rank, name & No.	Whether SC/ST	Name of Farms/Depot
1.	Supr Shree Ram (8060411)	-	MR Meerut
2.	Supr Charan Singh (8060446)	-	MF Birsarangwal

Handwritten signatures and initials at the bottom right of the page.

54
46
29

3.	Supr Raj Kumar Gupta (8060402)	-	MF Dehradun
4.	Supr Dharam Vir Singh (8060442)	-	MF Belgaum/Bareilly
5.	Supr Kehar Singh (8060438)	-	MF Tezpur/Namkum
6.	Supr Niranjana Singh (8061128)	SC	MF Pimprô
7.	Supr Prem Chand Sharma (8060463)	-	MF Dehradun
8.	Supr Usha Nath Parashor (8060463)	-	MF Guwalior (Ghatigaon).
9.	Supr. Maharaj Singh (8060412)	-	MF Jhansi
10.	Supr Shanti Prakash Jyval (8060502)	-	GRTU Raiwala
11.	Supr Partap Singh (8060585)	-	MRD Ranikhet
12.	Supr Narotam Rai (8059936)	-	MF Jalandhar Cantt.
13.	Supr OP Mishra (8060306)	-	MF Secunderbad
14.	Supr. Thomas Cecil (8060346)	-	MF Ahmednagar.

Appendix 'B' to MF Records letter
No. 165/A/28/92/1/A-2 dated
Oct. 92.

SPECIMEN WILLINGNESS/UNWILLINGNESS CERTIFICATE FOR ATTENDING
ADVANCE/ADMN COURSES SERIAL NO. A/28/92.

I _____ name _____ rank _____ of
Military Farm _____ has been detailed to attend the Advance/
Admin course vide MF Records letter No. 165/A/23/92/1/A-2 dtd. _____
Oct. 92. I hereby certify that I am willing/not willing to attend
the course. I do understand that my not attending the course as
detailed could deprive me of my claim(s) for being considered for
promotion for which the passing of this course is mandatory and I
have no claim for promotion of account of my unwillingness to attend
the course as circulated vide Ary HQ letter No. A/81185/Q/MF-1
dated 26 May para 2 (c).

Station :

Signature _____

No. Rank & Name

COUNTERSIGNATURE

[Handwritten signatures]

To

The Deputy Director General of Military Farms,
Army Headquarters,
Quarter Master General's Branch,
West Block-II, R.K.Puram
New Delhi-110066

(Through Proper Channel)

Sub :- SENIORITY IN SUPERVISION GRADE

Respected Sir,

1. Most humbly I submit your honour the following facts for your kind consideration and favourable orders please.

It is noticed from the list of supervisors detailed for Advance Administrative course vide MF records letter No. 165/A/28/92/1/A-2 dt. 20 Nov. 1992 that Assistant Supervisor that Assistant Supervisor Francis Cecil has been given promotion and Seniority as per list for above course concluded on 12th March, 1993. It is further revealed that Mr. Cecil has given promotion and seniority retrospectively followed by Central Administrative Tribunal decision. The benefit of revealing the panel is restricted to only one individual who has approached tribunal and justice is not imparted to my genuine case which is explained as under.

That during Feb 78, I was promoted to the grade of Asstt. Supervisor. I passed intermediate course in 1st position during 1980 and since then I became eligible for promotion to the grade of Supervisor as per existing rules prevailed during that period. Four panels were drawn during 1981, 1982, 1984 and 1986. But I was promoted only in the last panel i.e. 1986, whereas 6 Asstt. Supra who were junior to me were promoted during 1984 who qualified the course after 1983. Had there been

For
Q
Amcar

yearwise panel these Asstt. Supr. (Junior to me) would have not been considered/selected for promotion being non-qualified at that time.

I had then appealed against the panel for 1984 the then DDG MF who turned down my appeal quoting the new policies introduced for selection. Again during 1986 Panel was drawn and my name was juniors again superseded me. This panel was also challenged by several other Asstt. Supervisors (who were not selected) in CAT and Supreme Court. Even I had to represent to the Supreme Court on behalf of our Department in order to clear my promotion.

Unable to hear this discrimination meted out to me, I request to your honour kindly review the panel and give me the seniority as that of Supr. Francis Cecil

Thanking you in anticipation,

Yours faithfully,

Hisar
Dated 8 April 93

Sd/- N.K.K. Nair
8060633 Supr.

Handwritten signature
of
Francis Cecil

/COPY/

To

The

Tele : 673396

Umaha Nideshalaya Sainya Farms (MF-2)
Quartermaster General Shakha
Sena Mukhyalaya
DV Dte Gen of Military Farms (MF-2)
Quartermaster General's Branch
Army Headquarters,
West Block 3, RK Puram
New Delhi-110066

856/Q/MF-2

Comdt

DDS Hisar

FORWARDING OF APPLICATION REGARDING SENIORITY.

1. Reference your office letter No. 505/2/HE dated 17 Apr 93.
2. Application dated 08 Apr ~~xxxxx~~ in respect of Supr NKK Nair (8060633) regarding his seniority has been examined at this HQ and it is found that Shri F. Cecil, Supr. has been correctly placed senior to Shri N K K Nair in the grade of Supervisor as per panels drawn by DPC/Special Review DPC.
3. Please inform the individual appropriately.

Sd/- (Anant Ram)

SCSO

JDRT-142

for D D T M F.

For Mr. Anant

[Signature]

4358
32
88
ANNEXURE - 5

Tele : 74045

Ashviya Prajamna Stud
Equine Breeding Stud
Hisar - 125 001

506/2/HS

02 Jul 93

Military Farms
Gauhati

FORWARDING OF APPLICATION REGARDING SENIORITY.

1. A copy of Army HQ letter No. 85684/Q/MF-2 dated 18 Jul 93 is forwarded herewith for the information of Shri NKK Nair, Supr (P No. 8060633) your unit.

Sd/- (N.K.Nair)
Lt. Col.
Adjt. & OM
for Commandant

*Attended
of
(-Adm-)
A. Nair*

APPENDIX 'A'

(Refer to Army HQ letter No. 85681/Q/MF-1
dt. 13 Dec. 84)

PANEL OF ASSISTANT SUPERVISORS FOR OFFICIATING PROMOTION
TO SUPERVISOR GRADE

Sl. No.	Name & Number	Remarks
	S/Shri	
1.	Jogi Ram Rathee (8060593)	
2.	Hussain Niyañ (8060639)	
3.	Krishna Kumar Shukla (8060343)	
4.	Monohar Lal Anand (8060466)	
5.	Narotam Rai (8059936)	
6.	Naresh Chandra Chopra (8060444)	
7.	Kuldip Kumar (8060587)	
8.	Jai Bir Singh (8060371)	
9.	Rajendra Nath Shukla (8060659)	
10.	Sumati Narain Pandey (8059932)	
11.	OM Prakash (8060479) - Under currenncy of punishmen	Not to be promoted till 28.
		85.
12.	SB Bajpai (8060581)	
13.	OM Prakash Mishra (8060306)	Subject to de-reser vation of one ST an one SC vacancy.
14.	Thomas Cecil (8060346)	
15.	Phagan Dass (8060648) (SC)	
16.	P. Cocil	

Currency of Panel

The selected panel shown above will remain operati
upto and including 27 Apr. 85 or till date of next meeti
of the DPC. whichever is earlier.

Sd/- (OSK Vao)
Col
Offg. DMF.

A. J. Jaiswal

ANNEXURE - 7

'APPENDIX - B'

(Refer to Army HQ letter No. 85681/Q/MF-1
dated 10 Jul 86)

PANEL OF ASSISTANT SUPERVISORS FOR OFFICIATING PROMOTION
TO THE COURSE OF SUPERVISORS.

Sl. No.	Name & Number S/Shri	Remarks
1.	Braham Dutta (8060632)	
2.	Hazari Lal Dhankar (8060638)	
3.	Ashwani Kumar Misra (8060400)	
4.	Rajinder Pal Singh (8060407)	
5.	Narendra Singh Yadav (8060292)	
6.	Raghu Ram Singh (8060485)	
7.	Jai Kishan (8060588) -	Subject to dereservation ST vacancy.
8.	Ramashrey Chak (8060309) -	Subject to completion of criteria during the pende of panel.
9.	N. Krishnan Kutty Nair (8060623) -	Subject to dereserva tion of the ST vacan
10.	Balbir Singh Chhashhin (8060652) (SC)	
11.	Baldev Urkuda Cawali (8060786) (SC)	
	(Individuals eleven only)	

Currency of panel

The select panel will remain operative upto and
including 02 Apr 87 or till the date of the next meeting
of the DPC, whichever is earlier

Sd/- (NB Subramanian)
Col.
Dir MF
for D D G M F

Advised
Advised

RESTRICTED

Annexure-8

61
35

Sheet No. 3-4

MILITARY FARMS RECORDS, PART II ORDER NO. 18 DATED 04 JUL 88

15	Supr Tejbir Singh Tomar (7326683)	MF Colaba	01.05.88	To MF Secunderbad
16	A/Supr Harminder Singh Bombra (8060736)	MF Meerut	30.05.88	To MFD Shillong
17	LDC Madan Lal (6632889)	MF Pathankot	21.12.87	To MF Rajouri
18	LDC Kamaljit Singh (8060759)	MF Jalandhar	18.4.88 (A/N)	To MF Deolali
19	MT Dvr Gde II R.Ranjan (8065655)	MFBD Toranagallu	06-06-88 (A/N)	To MF Madras
20	Boiler Att'dt Laxman Singh (8065328)	MF Guwalior	04.04.88	To MF Bhopal

PROMOTIONS

21	UDC Madan Gopal Malhotra (8060174)	MF Jalandhar	21.06.88	Having assumed the charge of higher appointment of O/Supdt. Gde-II, promoted to Offg O/Supdt. Gde-II in the pay scale of Rs. 1400-1800-EB-50-2300 in an existing vacancy.
22	A/Supr Francis Cecil (8060353)	MF Jabalpur	15.11.84	Having assumed the charge of higher appointment of Supr grade, promoted to Offg Supr in the pay scale of Rs. 330-10-38 EB-12-500-EB-15-560 in an existing vacancy 15.11.84.

Sd/- Capt
Restricted

Contd. Page /- 4

Annexure 8
of
Annexure 8

RESTRICTED

Annexure-8 (Contd.)

Sheet No. 4 & last.

MILITARY FARMS RECORDS, PART II ORDER No. 18 DATED 04 JUL 88

23. Farm Hand Sukh MF 23.5.88 Having assumed the
Dev SC-1434 Ahmedabad charge of higher
appointment of MT
Dvr of Rs. 950-20-
1150-EB-25-1400
promoted to Offg M
Cvr Gde II wef 23.
88 in an existing
vacancy.

Alloted Army No. 8065679

24. Farm Hand MFD 18.5.88 Having assumed the
PV Sellar Visakhapatnam (F/N) charge of higher
(SC-1768) appointment of NT
Dvr Gde II in the
scale of Rs. 950-20-
1150-EB-25-1400, pr
moted to Offg MT
Driver Gde II wef
18.5.88 in an exis
ting vacancy.

Alloted Army No. 8065680

MARRIAGE

25. Supr MF 09.12.84 Having married to
Gurdev Singh Birsarangwal Miss Manjeet Kaur
(8061115) D/o Shri Mukhtar
Singh according to
Sikh rites at 14,
Joshi Colony, Mall
Road Amritsar (Punjab)

26. LDC MF 07.11.87 Having married to
Anil Kumar Birsarangwal Miss Meena Kumari
(8061194) Shri Gurdial accor
to Hindu Vedic Rit
at H.N.A.-62, GCI C
ny, Rajban, Teh.
Paunta Sahib, Dist
Sirmour (H.P.)

Prepared by : Sd/- Rajender
Prasad, LDC

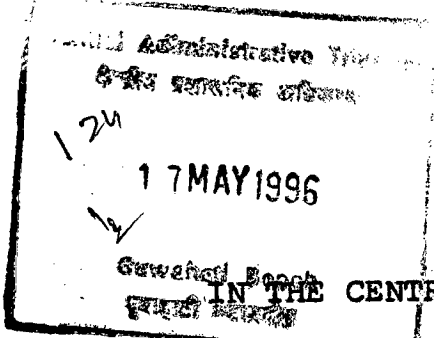
Sd/- Raghbir Singh
Capt

Checked by : Sd/- Dhani Ram
O/ Supdt.

Senior Record Officer
for OIC MF Records.

RESTRICTED

Approved
@
Adv.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI

37-48-
17.5.96
Filed by
Haqueul Alam
Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench, Gauhati

In the matter of :-

O.A. No. 203/95

Shri N.K.K.Nair

-Vs-

Union of India and Others

-And-

In the matter of :-

Written Statements submitted by the
Respondents No. 1 to 9.

Written Statements :-

The humble Respondents submit their
Written Statements as follows :

1. That with regard to statements made in paragraphs 1 to 5 of the application, the Respondents have no comments on them.
2. That with regard to statements made in paragraph 6.1 of the application, the Respondents beg to state that the applicant was appointed as Sub Assistant Supervisor on 28.10.70 and promoted as Assistant Supervisor on 17.2.1978 and Supervisor on 21.4.97. He is posted in Military Farm Dimapur.

Received
Adm. Secy.
18-6-96
at 11 AM

Contd...P/2

3. That with regard to statements made in paragraph 6.2 of the application, the Respondents beg to state that the applicant was considered by a Departmental Promotion Committee held on 16th April, 1981 for promotion to the grade of Supervisor. He was at serial No. 68 of the seniority list. In view of lower merit and low position in the seniority list he was not placed in the approved list for promotion. The statement that there are no statutory rule for promotion is incorrect. The criteria for promotion is laid down in recruitment rules published vide SRO 363/78. As per the same Assistant Supervisor who has put in 3 years service and qualified in the prescribed departmental examination is eligible for promotion. The method of promotion is selection.

4. That with regard to statements made in paragraph 6.3 of the application, the Respondents beg to state that the general guidelines for promotion was contained in Department of Personnel and Administration Reforms letter No. 22011/6/75/Estt(D) dated 30th December, 1972. Those were supplimented by further instructions issued vide Military Farm Directorate letter No. 85681/Q/MP-1 dated 25th August, 1984. It is not correct that these instructions ~~WERE CANCELLED~~ are defective/discriminatory. The instructions were ~~uniformal~~ applicable to all the executive staff. However these instructions were cancelled vide Military Far Directorate Letter No. 85882/2/Q/MP-1 dated 7th March, 1990, in view of practical difficulties experienced in rotating Supervosory staff between different sections of the Farm. The applicant was duly considered by a DP^C held on 26/27 April, 1984 for promotion to the grade of Supervisor. He was not included in the select list due to comparative lower merit.

5. That with regard to statements made in paragraph 6.4 of the application, the Respondents beg to state that it is admitted that Shri Francis Cecil has filed an application challenging his non-promotion to the grade of Supervisor vide O.A. No. 55/86 in Hon'ble Central Administrative Tribunal, Jabalpur Bench.

6. That with regard to statements made in paragraph 6.5 of the application, the Respondents beg to state that it is admitted that the Hon'ble CAT Jabalpur Bench vide Judgement and Order dated 24.12.1987 in O.A. No. 55/86 directed constitution of Special Review Committee to review the case of promotion of the petitioner in that case is Shri Francis Cecil. Accordingly a Special Review Committee reviewed the case of Francis Cecil and other Respondents in O.A. No. 55/86. In its meeting held on 25th February, 1988 the committee found Shri Francis Cecil fit for promotion. The Hon'ble CAT Jabalpur Bench did not set aside the criteria adopted for promotion regarding the DPC held on 26th April, 1984.

7. That with regard to statements made in paragraphs 6.6. and 6.7 of the application, the Respondents beg to state that the findings of the Special Review Committee was as per the directions of Hon'ble CAT Jabalpur Bench. A copy of the minutes of the Special Review Committee held on 25th February, 1988 will be produced in the Court at the time of hearing for perusal of Hon'ble Members.

Contd...P/4

8. That with regard to statements made in paragraph 6.8 of the application, the Respondents beg to state that the Special Review Committee had made a fresh panel since Shri Francis Cecil was the only addition to the panel, he was promoted. The minutes will be produced for perusal of Hon'ble Members.

9. That with regard to statements made in paragraph 6.9 of the application, the Respondents beg to state that it is admitted that no DPC was held in the year 1985. A DPC was held on 02 April, 1986. The vacancies considered by the DPC were current as per records and there was no clubbing of vacancies. The applicant was considered by the DPC and his name was included at serial No. 9 of the select list. He was to be promoted subject to a reservation of vacancies. Shri Brahma Dutta and Shri Hazar Lal Dhunkar who were junior to the applicant were graded 'Very Good' by the DPC and placed above the applicant. A copy of the minutes will be produced for perusal of Hon'ble Members during hearing.

10. That with regard to statements made in paragraph 6.10 of the application, the Respondents beg to state that the averment of the applicant are not correct and hence denied. No illegality or irregularity is apparent in the proceedings of the DPCs held in 1986 and Special Review Committee held on 25th February, 1988.

11. That with regard to statements made in paragraph 6.11 of the application, the Respondents have no comments on them, the same being matters of record.

12. That with regard to statements made in paragraph 6.12 of the application, the Respondents beg to state that the applicant was included in the select list for the first time by the DPC held in 1986 and he was accordingly promoted in his turn. The applicant was neither approved for promotion by the DPC held in 1984 nor special Review Committee held on 25th February, 1988. Shri Francis Cecil was promoted based on the directions of the Hon'ble CAT Jablapur in O.A. No. 55/86.

13. That with regard to statements made in paragraph 6.13 of the application, the Respondents beg to state that promotion to the grade of Supervisor is made by the selection method. Promotion is not on seniority cum fitness. As such there is no substance in the contention of the applicant's application.

14. That with regard to statements made in paragraphs 6.14 and 6.15 of the application, the Respondents have no comments on them, the same being matters of record.

15. That with regard to statements made in paragraph 7, regarding Reliefs sought for, the Respondents beg to state that the applicant is not entitled to any of the reliefs sought for and as such the application is liable to be dismissed.

16. That with regard to Grounds of the application the Respondents beg to state that none of the grounds is maintainable in law as well as in facts and as such the same is liable to be dismissed.

Contd...P/6

-53- 42 CB


17. That with regard to statements made in paragraphs 8 to 13 of the application, the Respondents have no comments on them.

18. That the Respondents submit that the application is devoid of merit and as such the same is liable to be dismissed.

V E R I F I C A T I O N

I, Major AS RATHORE, Officer-in-Charge, Military Farm, Basistha, Guwahati-28 as authorised do hereby solemnly declare that the statements made above are true to my knowledge, belief and information.

And I sign this verification on this the
day of 10 May 1996 at Guwahati.

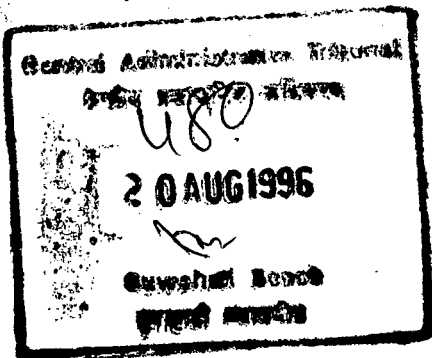

Officer Incharge
Military Farm, Guwahati.

DECLARENT

54- 69

Filed by The applicant
through Mr. Clerk

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



O.A. No. 203/95

Sri N.K.K. Nair

-Vs-

Union of India & Ors.

-And-

In the matter of :-

Rejoinder submitted by the applicant
in reply to the Written Statement
filed by the respondents.

The above named applicant

Most humbly and respectfully begs to state as under :

1. That with regard to the statement made in paragraph 3, the applicant denies the correctness of the same and therefore the Hon'ble Tribunal be pleased to direct the respondents to produce the documentary evidence how promotion relates category of Supervisor fall under Selection method and moreover if the procedure of promotion of Assistant Supervisor to Supervisor is of selection method in that event whether the panel was drawn in accordance with the relevant Central Government instruction and guidelines regarding the assessment of ACR's for inclusion of name of eligible officers in the panel which was drawn in the relevant year i.e. 1984. Therefore respondents are duty bound to produce all relevant records

Contd...P/2

Received copy
Sd/- CCSC
19/8/95

to justify whether the relevant guidelines were followed by the DPC held in the year 1984 for promotion of Assistant Supervisor to the category of Supervisor.

2. That the applicant categorically deny the statement made in paragraph 4 and 5 of the written statement and further begs to state that the procedure adopted by the DPC held on 26/27 April, 1984 is discriminatory, Arbitrar and unfair because the assessment was not done in accordance with the relevant rules and regulations. It would be evident from the Judgement and Order dated 24.12.87 passed in O.A. No. 55/86 (Francis Cecil Vs. Union of India & Ors). It is crystal clear from a mere reading of paragraph 6,7,8 of the said judgement where the Hon'ble Tribunal found that the procedure adopted in the DPC is contrary to the relevant rules for assessment and finally the Hon'ble Tribunal, Jabalpur Bench had directed the respondents to hold to constitute a review DPC to go into the question of promotion to the post of ~~Assistant~~ Supervisor from the rank of Asstt. Supervisors on merits afresh in the light of observations made in that judgement and also directed to prepare a new panel. Therefore it is quite clear that the statements of the respondent made in paragraph 4 and 5 of the written statement are not correct.

3. That with regard to the statement made in paragraph 6,7 and 8 of the written statement the applicant denies the correctness of the same and further begs to state that that the respondents had acted in a total misconception with the Judgement and Order passed in O.A. 55/86

in the case of Francis Cecil is restricted to the applicant of that Original Application but it would be clear from the mere reading of the decision of the Judgement and Order dated 24.12.1987 passed in O.A. 55/86 where the ~~Tribunal~~ Hon'ble Jabalpur Bench of the Central Administrative Tribunal has held as follows :

" 9. Consequently, for the reasons discussed we direct constitution of a special Review Committee to go into the question of the promotion to the posts of Supervisor from the rank of Asst. Supervisors which are impugned in this petition on merits afresh in the light of our observations and prepare a new panel. It is not necessary to revery any of the respondents pending the recommendations of the Review DPC. However, if the Special Review D.P.C. on merits does not find any of the respondents fit for promotion they shall be reverted back to their former posts and the intervening period in respect of such respondents treated as adhoc promotion. The case of the petitioner for promotion to the post of supervisor will also be reviewed afresh. If he is considered by the Review Committee to be fit for promotion he would be promoted with effect from the date of the promotion of his next junior. The special Review Committee should meet and process their recommendations as on the date of the original D.P.C. ignoring subsequent ACRs or development within three months of the date of communication of this Judgement."

-57- 45 12

From above it is quite clear that the Hon'ble Jabalpur Bench of the Central Administrative Tribunal has specifically directed the respondents to constitute a Special Review Committee to go into the question of the promotion to the posts of Supervisor from the rank of Assat. Supervisor which are impugned in that petition on merits afresh in the light of the observations made in that Judgement and Order dated 24.12.1987 and also directed to prepare a new panel. It would be further evident from the Observation of the Hon'ble Tribunal that if this Special Review DPC on merits does not find any of the respondents fit for promotion they should be reverted back to their former posts and during intervening period in respect of such respondents treated as adhoc basis. Therefore it is quite clear that the respondent have totally mis-interpreted the Judgement and order dated 24.12.1987 and therefore perhaps simply included the applicant of O.A. 55/86 in the Panel. Therefore the Judgement and Order passed in O.A No. 55/86 were not strictly followed and the case of the applicant was not considered afresh in terms of the Judgement and Order passed in O.A. 55/86. It would be further evident while this Original Application was admitted by the Hon'ble Tribunal it is observed by the Hon'ble Tribunal that the only short point is to be determined whether the case of the applicant for promotion was considered in the Review DPC in the light of the Judgement and Order passed in O.A. 55/86.

FF 13
-58-

4. That with regard to the statement made in paragraphs 9, 10, 11, and 12 of the written statement, the applicant denies the correctness of the statements and also begs to state that even the findings of the DPC not in accordance with the rules because the Hon'ble Jabalpur Bench of the Central Administrative Tribunal in its Judgement and Order passed in O.A. 55/86 has observed that from the DPC proceedings it is seen that the grading nomenclature adopted by the DPC is also not the standard one as laid down in Article 29 of CSR's (Vol.II) according to which there is no categorisation such as average and below average. Mr. F. Cecil who was categorised in a low merit previously in 1984 panel but the review DPC found him of high merit and he is also found fit for promotion of the Special Review DPC after the judgement and order passed by the Central Administrative Tribunal in O.A. 55/86 and also placed above the juniors who had superseded in 1984 DPC. The applicant is similarly circumstanced and deserves equal treatment and the applicant's case ought to have been considered alongwith the juniors in the light of the observations made by the Central Administrative Tribunal, Jabalpur Bench in O.A. 55/86. Moreover it would be evident as regard the procedure how to draw the panel while adopting the selection procedure for promotion which would be evident from the book of seniority and promotion procedure. The DPC ought to have considered the case of the applicant as the category of the applicant i.e. Supervisor falls in the category of Group C for which the Bench mark 'Good' should have been included in the panel ~~should have been included~~ in the panel ^{of promotion} ~~of inter-se seniority~~ in the lower cadre irrespective of their grading. The

applicant is meted out ^{with} ~~without~~ discrimination as regard the assessment is concerned in both the DPC Proceeding held in 1984 as well as in 1986 and also in the Review DPC held in terms of Judgement and Order dated 24.12.87 passed in O.A. 55/86.

That the applicant also begs to state that the performance of the applicant was excellent in all preceeding years related to 1984 therefore whether all the ACR's were considered by the DPC of 1984 while considered the case of the present applicant at the relevant time is also required to be examined in terms of Swamy's Guideline of Departmental Promotion Committees referred in 6.2.1 with the heading Confidential Reports in Part IV regarding procedure to be observed by the DPC.

5. That with regard to the statement made in paragraphs 12,13,14,15, 16,17 and 18 of the written statement made by the respondents the applicant denies the correctness of the same and further begs to state that the procedure adopted even in the Review DPC were not strictly in terms of the Judgement and Order dated 24.12.87 otherwise the applicant who is similarly circumstanced like that of Mr. F. Cecil could have been found placed in the panel of promotion of the Special Review DPC. But in fact the respondents have simply considered the case of the applicant of O.A. 55/86 alone. Therefore the Hon'ble Tribunal be pleased to direct the respondents for holding a fresh Review DPC strictly in terms of the observations made as regard assessment for promotion to the grade of

Supervisor. In this connection it may be stated that the records of the proceedings of DPC held on 26/27 April 1984 and proceedings of Review DPC held in terms of Judgement and Order dated 24.12.87 passed in O.A. 55/86 be produced before this Hon'ble Court for perusal of the Hon'ble Tribunal.

Under the facts and circumstances stated above this application is deserves to be allowed with costs.

V E R I F I C A T I O N

I, Shri N. Krishnan Kutty Nair, Son of late K. Narayan Pillai, presently working as Supervisor in the Military Farm, Dimapur do hereby declare and verify that the statements made in this rejoinder of the O. A. No. 203/93 are true to my knowledge and belief and I have not suppressed any material facts.

And I sign this verification on this the day of August, 1996.



Signature