

O.A. 351/00608/2017

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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, AT KOLKATTA**

O.A.NO. 351/2017

IN THE MATTER OF:

An application under section 19 of the Central
Administrative Tribunal Act, 1985.

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IN THE MATTER OF:

1. Mr. G. Adi Nanarayn S/o Late Pandiah G, working as
Head Constable in the India Reserve Battalion,
Andaman and Nicobar Islands, resident of Prem Nagar,
Port Blair, South Andaman District-744102.
2. Mr. M.Krishna Rao S/o Late M. Ramani, working as
Head Constable in the India Reserve Battalion,
Andaman and Nicobar Islands, resident of Marine Hill
Port Blair, South Andaman District-744101.

.....Applicants

-Versus-

1. Union of India Service through the Secretary, Ministry
of Home Affairs, Department of Police, New Delhi -
110001.
2. The Lt. Governor, Andaman & Nicobar Islands, Raj
Niwas, Port Blair-744101.
3. The Chief Secretary, Andaman and Nicobar
Administration, Secretariat Building, Port Blair-
744101.

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4. The Director General of Police, Andaman and Nicobar Islands, Police Headquarters, Atlanta Point, Port Blair-744101.
5. The Commandant, India Reserve Battalion, Port Mount, Port Blair-744105.
6. The Assistant Commandant (HQ), India Reserve Battalion, Port Mount, Port Blair-744105.

.....Respondents.

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Coram : Hon'ble Mr. A.K. Patnaik, Judicial Member

Hon'ble Ms. Jaya Das Gupta, Administrative Member

For the applicant : Mr. R. Singh, counsel

For the respondents : Mr. S.K. Ghosh, counsel

ORDER (ORAL)

Per A.K. Patnaik, J.M.

This O.A. has been filed under Section 19 of the Central Administrative Tribunals Act, 1985 challenging the order No.25 dated 18.03.2017(Annexure A-9 of the O.A.) and the circular No.Comdt./IRBn/HC-ASI/2015/460 dated 24.03.2017(Annexure A-10 of the O.A.) being contrary to the letter being F.No.45-147/2014-Home (IRBN Case) dated 21/22.03.2017.

2. As per ld. counsel for the applicant Mr. R. Singh, the sum and substance of the O.A. are as follows:-

Both the applicants are holding the post of Head Constable(GD) and eligible for promotion to the rank of Assistant Sub Inspector. The Director General of Police recommended that the promotions at all ranks in all units should be based on Seniority-cum-fitness. The Schedule of the Recruitment Rules for the post of Head Constable was amended and, accordingly promotions were granted based on 'Seniority-cum-fitness'. Whereas in the case of promotion to the rank of Assistant Sub Inspector, the A&N Administration has accepted the recommendations of the Respondent No.4 and asked for a proposal for amending the RRs of ASI(GD) as 100% promotion on 'Seniority-cum-fitness' so that benefit similar to other ranks can be extended to Head Constables also. But despite this,



the respondent No.4,5 and 6 are acting contrary thereto and issued circular inviting applications from eligible Head Constables willing to participate in the promotional test as prescribed in order No.25 dated 18.03.2017.

3. The applicant has prayed for the following reliefs:-

A) An order be passed permitting the applicants to join together and file the instant original application under Rule 4(5)(a) of Central Administrative Tribunal(Procedure) Rules, 1987 as the cause of action and the nature of relief prayed for is same having common interest in the matter;

B) An order be passed setting aside the Order No.25 dated 18.03.2017, Circular No.Comdt/IRBn/HC-ASI/2015/460 dated 24.03.2017 with further direction upon respondent No.4 to submit the proposal for amending the rules of ASI(GD) as 100% promotion on "Seniority-cum-fitness basis", in terms of the letter dated 21/22.03.2017;

C) Any such order or orders be passed and or direction or directions be given as this Hon'ble Tribunal may deem fit and proper.

D) Cost and incidentals to this application."

4. Heard Mr. R. Singh, Id. counsel for the applicants and Mr. S.K. Ghosh, Id. counsel for the respondents.

5. Ld. counsel Mr. R. Singh appearing on behalf of the applicant has drawn our attention to the letter being F.No.45-147/2014-Home (IRBn Case) dated 21/22.03.2017(Annexure A-9, page 46 of the O.A.) written by the Assistant Secretary (Home) to the Director General of Police, A&N Islands, Port Blair i.e. the Respondent No.4 of this O.A. and submitted that it has been categorically advised to go for 'seniority-cum-fitness' while promoting the Head Constables(General Duty) and to send a proposal for amending the RRs of ASI(GD) as 100% promotion on "seniority-cum-fitness basis", so that the HC(GD) shall also get the benefits similar to that of the promotional avenues of RR amended for other cadres in IRBn, A&N Islands. The said letter dated 21/22.03.2017(Annexure A/9 to the O.A.) is reproduced below for ready reference:-

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"I am directed to refer around 24 similar type of representations dated 09.03.2017 received from Head Constables (GD) IRBn addressed to the Hon'ble Lt. Governor and a copy to you on the subject cited above which is self-explanatory.

In view of the above, I am directed to invite a reference to your D.O.No.DGP/2016/72 dated 14.07.2016 wherein it has been recommended that principally in promotions at all ranks in all units(IRBn/PMF/PRO/Fire/PMT) to follow the criteria of "Seniority-cum-fitness" and all other provisions made from time to time must be modified immediately by suitably amending the Recruitment Rules and Standing Orders.

Therefore, to avoid any discrepancies in the promotion of HC(GD) to the post of ASI(GD), it is requested to send a proposal for Amending the RR of ASI(GD) as 100% promotion on "seniority-cum-fitness basis", so that the HC(GD) shall also get the benefits similar to that of the promotional avenues of RR amended for other cadres in IRBn, A&N Islands."

Therefore, Id. counsel for the applicants, Mr. Singh has prayed for setting aside the Order No.25 dated 18.03.2017 and Circular No.Comdt/IRBn/HC-ASI/2015/460 dated 24.03.2017

6. On being questioned, Id. counsel for the applicants, Mr. Singh fairly submitted that the applicants have not preferred any representation to the authorities concerned ventilating their grievances against the impugned order dated 24.03.2017 (Annexure A/10 to the O.A.) which is under challenge in this O.A. He submitted that after issuance of the circular dated 24.03.2017, the applicants rushed to this Tribunal without exhausting the remedies available under the rules. We are of the considered view that this application is hit by Section 20 of the Central Administrative Tribunals Act. Mr. Singh submitted that liberty may be granted to the applicants to file representations to the respondent authorities ventilating their grievances regarding this matter.

7. Considering the aforesaid facts and circumstances, we do not think that it would be prejudicial to either of the sides if liberty is granted to the applicant to file a representation to the Respondent No.4 i.e. the Director General of Police,

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Andaman and Nicobar Islands, Police Headquarters, Port Blair ventilating their grievances pinpointing different Government orders which had been issued from time to time and the Respondent No.4 is directed to consider and dispose of the same within a time frame. Accordingly, the applicant is given liberty to file a comprehensive representation to the Director General of Police, Andaman & Nicobar Islands, Police Headquarters, Port Blair ventilating their grievances pinpointing different Government orders which had been issued from time to time and enclosing all the relevant documents within a period of one week. The Respondent No.4 i.e. the Director General of Police, Andaman & Nicobar Islands, Police Headquarters, Port Blair is directed to consider and dispose of the same as per the rules and regulations in force by passing a well reasoned order keeping in mind the Government orders issued from time to time regarding promotion from the post of Head Constable to the post of ASI(GD) within 4 weeks from the date of receipt of such representation and communicate the decision to the applicant forthwith.

8. Mr. Singh submitted that by virtue of circular dated 24.03.2017 if the selection process starts then the applicants will be prejudiced, therefore, necessary direction may be issued to Respondent No.4 to decide the representations of the applicants before taking further action on the circular dated 24.03.2017.

9. It is made clear that we have not gone into the merits of the case and all the points raised in the representation are kept open for consideration by the respondent authorities as per rules and guidelines governing the field.

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10. Though we have not gone into the merits of the matter, we hope and trust that the respondents will consider all points raised by the applicants regarding promotion of Head Constables to ASI(GD). Liberty is given to the applicant to annex a copy of this order along with the representation to be preferred him.
11. With the above observations the O.A. is disposed of. No order as to cost.

(Jaya Das Gupta)
Administrative Member

(A.K. Patnaik)
Judicial Member

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