

CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION No. 670 OF 2017

Dated:- 8th day of November, 2017.

Coram: Hon'ble Shri. Arvind J. Rohee, Member (J).
Hon'ble Shri. R. Vijaykumar, Member (A).

Shri. Ram Narayan S/o. Dhaniram
 Age:- 55 years, Occ:- Service.
 R/at:- 5/100 Juhukutir, Versova Link Road,
 Andheri (West) Mumbai 400056.
 Off/at:- Khadi & Village
 Industries Commission
 Gramodaya 3, Irla Road,
 Ville Parle (West) Mumbai 400056. ... ***Applicant***
(By Advocate Shri Amol Joshi)

Versus

1. Union of India.
 Ministry of Micro Small Medium Enterprises
 Udyog Bhawan, Rafi Marg, New Delhi 110011.
2. Chief Executive Officer
 Khadi & Village Industries Commission,
 Gramodaya 3, Irla Road,
 Ville Parle (West) Mumbai 400056.
3. S.K. Jaiswal (Assistant Director)
 Khadi & Village Industries Commission,
 Rup Nagar, Guwahati 781032. ... ***Respondents***

ORDER (Oral)

Per : Shri A.J. Rohee, Member (J)

Today when the matter is called out for admission, heard Shri A.D. Joshi, learned Advocate for the Applicant. We have carefully perused the case record.

2. The applicant has grievance regarding non-consideration of his claim by the

Departmental Promotion Committee (DPC) held on 28.10.2017 for the promotion post of Deputy Director. He, therefore, approached this Tribunal under Section 19 of the Administrative Tribunal's Act, 1985 seeking the following reliefs;

“8.(A) This Hon'ble Tribunal be pleased to call for papers and record of the dPC held on 28.10.2017 for promotion to the post of Deputy Director.

(B) This Hon'ble Tribunal be pleased to hold and declare that action on the part of the respondents to refer/ recommend only the names of unreserved person/ employees (i.e. Assistant Directors) in the DPC held on 28.10.2017 for promotion to the unreserved Posts of Dy. Director ignoring seniority in the cadre of Assistant Director is incorrect, erroneous, contrary to the settled position of Law as on date and highly prejudicial so also bad in law.

(C) This Hon'ble Tribunal further be pleased to entirely scrub the DPC proceedings held on 28.10.2017 for promotion to the Post of Dy. Director.

(D) This Hon'ble Tribunal be pleased to cancel/ revoke the Order of promotion to the Post of Dy. Director issued in favour of Mr. S.K. Jaiswal if any.

(E) This Hon'ble Tribunal be pleased to direct the respondents to consider and grant promotion to the Posts of Dy. Director on the basis of general seniority in the Feeder cadre of Assistant Directors on ad-hoc basis without following the reservation roster pending disposal of the present OA.

(F) This Hon'ble Tribunal further be pleased to direct the respondents to hold a fresh DPC for Promotion to the Post of Dy. Director and further be pleased to direct the respondents to consider and recommend the name of the applicant (SC) eligible reserved candidate in the said fresh DPC to be held for promotion to the Posts of Dy. Director on the basis of his general seniority in the Feeder cadre of

Assistant Directors.

(G) *Pending the hearing and final disposal of this OA this Hon'ble Tribunal be pleased to direct the respondents to with held the final Decision of DPC held on 28.10.2017 for the Post of Dy. Director.*

(H) *Pending the hearing and final disposal of this OA this Hon'ble Tribunal be pleased to direct the respondents to with held the Order of promotion to the Post of Dy. Director issued (if any) in favour of Mr. S.K. Jaiswal.*

(I) *Interim and or ad-interim relief may be granted in terms of Prayer Clause (F) & (G) above which is also specifically prayed under para 9 below.*

(J) *The heavy cost of this Original application may be awarded in favour of the applicant.*

(K) *Any other relief in the nature and the circumstances of the case as this Hon'ble Tribunal deems fit and proper may be granted.”*

3. The Applicant is presently working as Assistant Director with the Respondent No.2. According to him, he is eligible for the promotion post of Deputy Director and presently there are eight vacancies. However, as per his information in a DPC held on 28.10.2017, his name was not considered, since it was not forwarded. He has, therefore, challenged the said DPC and has also sought interim relief directing the respondents to withheld final decision on the said DPC and also withheld the order of promotion of private Respondent No.3 to the

post of Deputy Director.

4. It is obvious from record that the recommendations of the DPC even if held were not approved by the competent authority, since there is nothing to this effect. There is also nothing on record to show that the promotion panel is published by the respondents granting promotion to Private Respondent No.3 or any other officer or that the applicant's case is not considered. It is obvious from record, that the applicant's case is based on surmises and he is under apprehension that his name has not been referred or considered by the DPC. His entire claim is based on the hear say information without any basis. Unless the DPC recommendations are approved by the competent authority and a promotion panel is published, no cause of action in fact arises for any official from the zone of consideration to challenge the same.

5. In such circumstances of the case, the entire OA is devoid of any merit. At this stage, we cannot exercise the power of judicial review to set aside the order, which is yet to be passed. However, the applicant

will be at liberty to challenge the decision of the respondents on approval of recommendations of DPC and issuance of promotion panel, in case his name does not figure in it. At this stage, no relief can be granted to the applicant nor the OA can be entertained, since it is premature.

6. In the result, the OA stands dismissed in *limine*, at the admission stage, without issuing notice to the respondents.

7. Registry is directed to furnish certified copy of this order to both the parties at the earliest.

(R. Vijaykumar)
Member (A)

(A.J. Rohee)
Member (J)

dm.