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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH, CALCUTTA

O. A. No: 351/000 690 of 2017

IN THE MATTER OF:

PATRICK LOBO,

aged about 75. years, son of Late Francis Lobo, residing at K.R. 30 (V.I.P. Road), Junglighat, Port Blair- 744103 and retired voluntarily from the post of Assistant Commissioner (Ad hoc) with effect from 26.09.2000 in the office of Andaman & Nicobar Administration, Port Blair-744101;

...Applicant

-Versus-

1. **UNION OF INDIA**, service through the Secretary, Government of India, Ministry of Home Affairs (UT Division), North Block, Central Secretariat, New Delhi- 110001.
2. **THE UNDER-SECRETARY**, Government of India, Ministry of Home Affairs (UT Division), North Block, Central Secretariat, New Delhi- 110001
3. **THE UNION TERRITORY OF ANDAMAN & NICOBAR ISLANDS**, service through the Lieutenant Governor, Andaman &

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Nicobar Islands, Raj Niwas, Port Blair-744101;

4. **THE CHIEF SECRETARY**, Andaman & Nicobar Administration, Secretariat Complex, Port Blair-744101;
5. **THE DEPUTY COMMISSIONER**, South Andaman District, Andaman & Nicobar Administration, Secretariat Complex, Port Blair-744101;
6. **SHRI BASU KUMAR**, working to the post of Tahsildar in the office of Deputy Commissioner, South Andaman District, Andaman & Nicobar Administration, Secretariat Complex, Port Blair-744101;
7. **SRI CEPHAS JACK**, Director, Social Welfare (Rtd.), C/o. Tribal Council, Car Nicobar, Pin-744301.

... RESPONDENTS

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CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

O.A/351/690/2017

Date of Order: 20.11.2018

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

Patrick Lobo -Vs- A&N Admin

For the Applicant(s): Mr. P. C Das, Counsel

Ms. T. Maity, Counsel

For the Respondent(s): Mr. S. K Ghosh, Counsel

ORDER (ORAL)

A.K Patnaik, Member (J):

Heard Ld. Counsel for the parties.

2. I find from the record that this O.A. was filed on 04.07.2017 and notices were issued on 16.06.2017 but no reply has been filed till date.

3. However, today Mr. P. C. Das, Ld. Counsel for the applicant, submitted that this O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 with the following prayers:

“ a) To quash and/or set aside the impugned office order No. 14016/09/2013-UTS.II dated 9th November, 2016 issued by the Under-Secretary Government of India, Ministry of Home Affairs by which the claim of the applicant has been rejected after the lapse of 37 years being Annexure A-24 of this original application.

b) To quash and/or set aside the impugned office letter dated 28th June, 2013 addressed to a Member of Parliament of Andaman & Nicobar Islands by which the Director (Services), Ministry of Home Affairs stated that although the name of the applicant was considered by DPC in the year 1990 in respect of fit for promotion against the vacancy year of 1990 but it was not given, therefore, since he has retired from service, the promotion of the applicant cannot be considered being Annexure A-18 of this original application

c) To pass an appropriate order directing upon respondent authority to regularize the ad hoc period which your applicant has rendered during service to the post of Tahsildar from 22.05.1974 to 17.05.1979 who got appointment by the selection process to the post of Tahsildar with effect from 22nd May, 1974 till the regular appointment to the post of Tahsildar vis-à-vis to the private respondents who got regular appointment in the same selection process to the post of Tahsildar

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whereas your applicant was given ad hoc appointment in the same selection process and to consider all consequential benefits in favour of the applicant.

d) To pass an appropriate order directing upon respondent authority to consider the promotion of the present applicant after regularization of the ad hoc period of service to the post of Tahsildar into DANICS Cadre in view of the fact that the applicant was considered fit for promotion by the DPC against the vacancy year of 1990 but despite fit for promotion your applicant did not get the promoted post of DANICS Cadre, therefore that promotion to the post of DANICS Cadre along with all consequential benefits may be given in favour of the applicant.

e) To pass an appropriate order directing upon respondent authority to regularize the ad hoc period rendered by the applicant to the post of Tahsildar and subsequent considering or promotion to the post of DANICS Cadre on the basis of the DPC assessment your applicant was fit for promotion against vacancy year of 1990 and further to give all consequential benefits in favour of the applicant accordingly and to fix your applicant's pensionary benefit accordingly.

f) Such other order or orders, direction or directions as your Lordships may deem fit and proper so that complete relief can be rendered to your applicant.

g) Cost and incidental thereto.

4. Mr. Das, in the presence of Mr. S.K. Ghosh, Ld. Counsel for the Andaman and Nicobar administration, further submitted that the grievance of the applicant may be more or less redressed if a direction is issued to consider his representation under Annexure-A/21, which has been forwarded to Respondent No.2 by the Andaman and Nicobar administration, i.e. Respondent No.4 vide Annexure-A/23, by the Under Secretary, Govt. of India, Ministry of Home Affairs (UT Division) [Respondent No.2] as already 1 and ½ years have elapsed in the meantime.

5. I do not think that it will be prejudicial to either of the sides, if the matter is left to the appropriate authority to consider as per rules and regulations in force.

6. On the other hand, Mr. S.K. Ghosh, Ld. Counsel for the Official Respondents, submitted that this representation pertains to the year 2016 and it will take some more time for the appropriate Respondents to consider/reconsider the same.

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7. In view of the submission made by the Ld. Counsel for both the sides, although notices have been issued but without awaiting for reply/rejoinder, without going into the merit of the matter, I dispose of this O.A. by directing Respondent No. 2 to consider the representation of the applicant so preferred under Annexure-A/21 duly forwarded under Annexure-A/23, and pass a reasoned and speaking order as per rules and regulations in force within a period of eight weeks from the date of receipt of copy of this order. I make it clear that if after such consideration the grievance of the applicant is found to be genuine then expeditious steps be taken within a further period of eight weeks to quash or set aside the order dated 28.06.2013 and to consider the case of the applicant for promotion against the vacancy year 1990.

8. With the aforesaid observation and direction, this O.A. stands disposed of. No costs.

9. As prayed for by the Ld. Counsel for the applicant, copy of this order, along with paperbook be transmitted to Respondent Nos. 2, 3, and 4 by Speed Post, for which, he undertakes to deposit the cost with the Registry within a week.

10. Copies of this order be handed over to the Ld. Counsel for the parties, who are present and heard in extenso.

(A.K.Patnaik)
Member(J)

RK/PS