

IN THE HIGH COURT OF DELHI

WP(C) No 8488/2004

DATE OF DECISION :- September 27, 2004

SHRI P K SINGH

Petitioner
Through Mr M P Raju, Advocate

versus

UNION OF INDIA & ORS

Respondents
Through Mr.A.K Bhardwaj, Advocate

CORAM :

- * HON'BLE MR JUSTICE B A KHAN
- * HON'BLE MR JUSTICE MANJU GOEL

- 1 Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest ?

KHAN,(J)

Petitioner's OA seeking quashing of orders dated 9 7 1999 and 9 11 2000 to the extent he was not considered for a review select panel for the year 1988-89 has been dismissed to give rise to this petition

Petitioner joined as a direct recruit Junior Time Scale Grade- ' officer selected through UPSC on 31.5 1989 (SC category) and became a member of the Indian Broadcasting (Engineer) Service (IBES) A seniority list of JTS cadre was issued on 15 7 1991 in which he was shown at serial No 830 and as against him one

T Sanappa (ST category) figured at serial No 864. Subsequently, 59 IB(E)S officers were promoted from Junior Time Scale to Senior Time Scale cadre. T Sanappa (ST category) who was already in service and had completed requisite years of service for promotion to the Senior Time Scale was also promoted. But since he ranked junior to petitioner in the seniority list dated 15.7.1991, petitioner took cue from this and filed OA No 2207/97 years after invoking Note 3 to Schedule 4 of IB(E)S Rules which provided as under:-

"Note-3

If an officer appointed to any post in service is considered for purpose of promotion to higher post, all persons senior to him in the grade shall also be considered notwithstanding that they may not have rendered the requisite number of years of service."

Petitioner made representation for this complaining of his non-consideration for promotion in the face of promotion of T Sanappa (ST category) who he claimed was his junior. Meanwhile, two other JTS Officers also filed OAs on the similar issue which were allowed by orders dated 26.2.1997 and 7.5.1997 directing respondents to hold a review DPC and to consider them for promotion from the date their juniors were promoted. Petitioner also filed OA and sought aid of these orders also. His OA was disposed of by order dated 19.11.1999. This order provided:-

"OA 2207/97 is allowed with direction to respondents to hold review DPC to consider the applicant for promotion to the higher post of Senior Time Scale. This shall be done within three months from the date of receipt of order. The applicant shall be entitled to consequential benefits in accordance with law."

As would be noted, this order only directed petitioner's consideration for promotion and not his consideration from the date when his claimed junior was promoted.

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Be that as it may, petitioner says that he represented to respondents on the strength of this Tribunal order but later came to know that respondents had passed orders promoting 388 JTS Officers to Senior Time Scale by order dated 9 7 1999 and that his junior in JTS cadre T Sanappa was placed at serial No 45 of the Review Select Panel for the year 1988-89 while he was placed at serial No 67 against the vacancy for the year 1990-91

Petitioner filed second OA No 3722/01 and sought quashing of orders dated 9 7 1999 and 9 11 2000 to the extent he was not considered for promotion in Review Select Panel for the year 1988-89

This OA was opposed by respondents on the ground that petitioner could not be considered for Review Panel of 1988-89 as he had not successfully completed the probation period as on 1 10 1991 and in terms of DOPT Notification dated 18 7 1989 he was not liable to be considered for such promotion. Moreover, there was no vacancy for the year 1988-89 in the SC category which stood de-reserved at that time for non-availability of the SC candidate. It was also explained by them that T Sanappa belonged to the category of Scheduled Tribe and, therefore, petitioner could not enforce his claim on the basis of his earlier promotion which he had earned on his own merit and eligibility.


Petitioner stands already promoted to the Senior Time Scale in the Review Select Panel of 1991. All he wants is that he should be promoted in the Review Select Panel of 1988-89 since his alleged junior T Sanappa who stood at serial No 861 in the 1991 seniority list was promoted which entitles him to a similar promotion under Note 3 to Schedule 4 of IB(E)S Rules.


Petitioner's claim, in our view, is unjustified and has been rightly rejected because he had been just appointed to the Junior Time Scale as a direct recruit when promotion to the Senior Time Scale was made by order dated 4 8 1989.

and had admittedly not completed his probation period. Therefore, he was not eligible to be considered for promotion in terms of DOPT OM NO.22091 dated 18.7.1989 which provided that when a junior who had completed the eligibility period was considered for promotion, his senior should also be considered irrespective of whether he had completed the requisite service provided he had completed the probation period. Therefore, his reliance on Note 3 appended to Schedule 4 of IB(E)S Rules could not be seen in isolation.

Apart from this, it is noticed that Schedule Caste vacancies in the Senior Time Scale for 1988-89 stood already de-reserved when petitioner was considered by the Review DPC in compliance to Tribunal orders. He admittedly had failed to throw any challenge to that de-reservation order and, therefore, respondents could not be blamed for not considering him for Review Select Panel of 1988-89 when no vacancy was available.

All told, we find no merit in this petition which is dismissed.


(B.A. KHAN)
JUDGE


(MANJU GOEL.)
JUDGE

September 27, 2004
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