

THE HIGH COURT OF MEGHALAYA

W.P. (C) No.113/2015

1. Union of India represented by the Secretary to the
Govt. of India, Ministry of Science & Technology,
New Mehrauli Road, New Delhi-110016.

2. The Surveyor General of India,
Survey of India,
Post Box No.37,
Hathibarkala Estate,
Dehradun-248001,
Uttarakhand.

3. Secretary,
Union Public Service Commission,
Dholpur House, New Delhi-110011.

:::: Petitioners

-Vs-

Prashant Kumar,
S/o Chandra Bhushan Choudhary,
Superintending Surveyor,
Meghalaya and Arunachal Pradesh,
Geospatial Data Centre, Survey of India,
Shillong

:::: Respondent

BEFORE
THE HON'BLE MR. JUSTICE T NANDAKUMAR SINGH
THE HON'BLE MR. JUSTICE S R SEN

For the Petitioners : Mr. SC Shyam, Sr. Adv,
Mr. B Deb, Adv

For the Respondent : Mr. M Chanda,
Mr. P Nongbri, Advs

Date of hearing : **26.06.2015**

Date of Judgment & Order : **26.06.2015**

JUDGMENT AND ORDER (ORAL)

(Justice T. Nandakumar Singh)

By this writ petition, the writ petitioners are challenging the judgment and order of the learned Central Administrative Tribunal (for short 'CAT') Guwahati Bench, Guwahati dated 03.09.2014 passed in Original Application No.268 of 2013 wherein and where-under, the writ petitioners were directed to convene the DPC for promotion to the post of Deputy Director/Director and consider the case of the applicant (present respondent) as per the Recruitment Rules, 1989 by which the present respondent has become eligible for promotion to the post of Deputy Director as well as Director.

2. It is fairly settled law that right of an employee to consider for promotion is a fundamental right provided the concerned employee is eligible under the Rules. It would be sufficed to refer to the 2 (two) decisions of the Apex Court in **(i) Ajit Singh & Ors v. State of Punjab & Ors: (1999) 7 SCC 209** and **(ii) Delhi Jal Board v. Mahinder Singh: (2000) 7 SCC 210**. Keeping in view of the settled law, we have given our anxious consideration to the impugned judgment and order passed by the CAT dated 09.03.2014 and we are of the considered view that no irregularity or illegality had been committed by the learned Tribunal in passing the impugned judgment and order dated 09.03.2014 inasmuch as, the learned Tribunal had simply directed the writ petitioners to consider the case of the respondent for promotion to the higher post as per the relevant Recruitment Rules.

3. The fact of the case had been mentioned clearly in the impugned judgment and order dated 03.09.2014. The respondent was initially appointed to the post of Deputy Superintending Surveyor in the grade

of Junior Time Scale (JTS) in pre-revised scale of Rs.8000-275-13500 in Survey of India on 13.09.2000 through Engineering Service Examination, 1977. Later on, the respondent was promoted to the post of Superintending Surveyor in the grade of Senior Time Scale (STS) in pre-revised scale of Rs.10000-325-15200 w.e.f. 07.04.2005 in accordance with the statutory Recruitment Rules. It is the further case of the parties that the respondent shall become eligible for consideration for promotion to the post of Deputy Director (Junior Administrative Grade) in the pre-revised scale of Rs.12000-16500 w.e.f. 07.04.2009 after five years of regular service in the Senior Time Scale. It is clear from the pleadings in the writ petition as well as from the annexures that the respondent had completed 5 years of regular service on 07.04.2010. It is nobody's dispute that the respondent became eligible for promotion to the post of Deputy Director in 2011. It is also admitted case of both the parties that Paragraphs 4 & 5 of the Office Memorandum dated 11.03.2011 issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training stipulate that non adherence to time frame of DPCs is a matter of serious concern to the Government and also that all concerned cadre controlling authorities are once again counseled to ensure strict adherence to the model calendar for the DPCs as circulated vide Office Memorandum dated 08.09.1998".

4. It is clearly indicated in the writ petition as well as the impugned judgment and order dated 03.09.2014 that the DPC is yet to be held for the vacancies arising in the year 2011-2012. The learned CAT vide the impugned judgment and order dated 03.09.2014, simply directed the writ petitioners to convene the DPC for promotion to the post of Deputy Director/Director and also to consider the case of the respondent for promotion as per the Recruitment Rules, 1989. Therefore, it is crystal clear that it is left to the writ petitioners to decide as to whether the respondent is

to be promoted to the higher post of Deputy Director/Director i.e. 2012. The said Rules of 1989 is also annexed as Annexure-I to the writ petition, and on perusal of it, it is clear that the Deputy Director is to be appointed by promotion on seniority-cum-fitness basis with 4 years of regular service in the Junior Time Scale and Director is also to be appointed by promotion of the officer of the Junior Administrative Cadre who has entered 14 years of service on 1st July of the year calculated from the year following the year of examination on the basis of which the officer was recruited to Survey of India Group 'A' service. It is nobody's dispute that the respondent was initially appointed to the post of Deputy Superintending Surveyor on 13.09.2000.

5. In the above factual backdrop, we are of the considered view that there is no irregularity or illegality in the impugned judgment and order dated 03.09.2014 passed in Original Application No.268 of 2013. Accordingly, this writ petition is dismissed.

JUDGE

JUDGE

Lam