

PETITIONER:
CHABUNGBAM IBOHAL SINGH

Vs.

RESPONDENT:
UNION OF INDIA & ORS.Civil Appeal No. 1149 of 1987

DATE OF JUDGMENT 02/02/1995

BENCH:
(KULDIP SINGH, R.M. SAHAI & B.L HANSARIA, JJ.)

ACT:

HEADNOTE:

JUDGMENT:

HANSARIA, J.:

1. The appellant has a grievance that is fundamental right under Article 16 has been infringed by not promoting him in the Indian Administrative Service in time as required by the concerned provisions governing the promotion to that Service. This grievance has taken an aggravated form because of promotion of his juniors.

2. The appellant approached Gauhati High Court with the aforesaid grievance which gave rise to Civil Rule No.256 of 1978. the writ petition stood transferred to the Central Administrative Tribunal, Gauhati Bench by operation of section 29 of the Administrative Tribunals Act, 1985. The Tribunal, instead of going through the merits of the grievance, accepted the preliminary objection raised by the State Government about the delay in filing the application and dismissed the same on that ground. Feeling aggrieved this appeal has been preferred.

3. To do complete justice between the parties, we thought it would be appropriate to examine the merits of the case instead of non-suited the appellant on the ground of delay. With this point in view, the appeal was once heard on 20.10.94, when need for perusal of the service record of the appellant from 1970 till 1982 and proceedings of the Selection Committee from 1974 till 1980 was felt. These records were produced before us on 8th December, 1994 on which date hearing was closed.

4. The need for perusal of the aforesaid documents was felt because the case of the respondent-State (Manipur) is that name of the appellant had been duly forwarded to the Selection Committee which had considered his case also in its meetings which held in 1974, 1976, 1977 and 1980; 165

but the appellant was not found fit and the Selection Committee did not recommend his name for promotion. Ultimately, the name of the appellant came to be recommended in 1981 and he was subsequently promoted.

5. A perusal of the aforesaid records does show that the appellant's name had been considered in 1974, 1976, 1977, 1980 by the Selection Committee. It is to be further found that in 1974 the non-recommendation was not only due to non-

issuance of integrity certificate by the concerned officer of the State which, it may be stated, was because of some disciplinary proceeding pending against the appellant relating to his integrity which proceeding came to be dropped afterwards, but also because the Selection Committee took note of adverse remarks in the ACRs of the appellant and observed that his speed in working output was slow and he was censured in 1969-70.

6. These factors which were taken note by the Selection Committee are undoubtedly relevant. We would, however, observe that the adverse remarks related to the allegation of embezzlement, which must be taken to have been wiped out because of the dropping of the disciplinary proceeding subsequently. Other factors noted by the Selection Committee receive support from what finds place in the ACRs of the appellant. Insofar as censure is concerned, we have seen the order of the Chief Secretary, Government of Manipur dated 30th July, 1969, which the appellant was censured. This had come to happen because of the issuance of a certificate by the appellant in favour of one Ibo Pishak Singh stating that his total income was Rs.600/- per annum. On the basis of this certificate, Post-Matric Scholarship meant for low income group students came to be awarded to Ibo Pishak Singh. It, however, appears from what has been in the Chief Secretary's order that the certificate had been issued carelessly without proper verification; and so, a lenient view was taken as there was no mala fide intention and the appellant came to be censured. The non-recommendation of the appellant in 1974 was thus for good and cogent reasons.

7. Insofar as 1976 consideration is concerned, the reason for supersession have been recorded thus: "His performance has been found to be only fair, was censured a few year ago. needs to acquire more experience and show better results before he can be promoted." These are cogent reasons for not recommending the appellant in that year.

8. The minutes of the meeting concerning the year 1977 shows that the Selection Committee recommended two names, one of which was of Shri RK Modhusana Singh who belonged to general category and another Shri LS Thangjon who was a Scheduled Tribe. RK Modhusana Singh was the junior-most incumbent in the list of eligible candidates. His assessment was, however, recorded as "very good" whereas of the appellant it had been stated "unfit". As the appellant was being superseded by one of his juniors, we do not think if it was enough on the part of the Selection Committee to have merely stated "unfit", and then to recommend the name of one of his juniors. No unfit is reflected in the proceedings, as against what earlier Selection Committees had done to which reference has already been made.

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9. Despite the above, we do not propose to interfere with this supersession of the appellant because we have found that Madhusana Singh was rated 'very good', whereas a perusal of the ACRs of the appellant shows that he cannot be rated as "very good", indeed, it would be difficult to regard him even as "good". So, no injustice has really been caused to the appellant in the recommendation of one of his juniors for promotion. As to Thangjon, it may be stated that he was the only Scheduled Tribe candidate amongst eligible persons. This apart, his assessment has been recorded as "good". This shows that there was no unfairness or arbitrariness in the proceeding of the Selection Committee of that year.

10. The last year with which we are concerned is 1980, and in

that year what happened was the Selection Committee had recommended four names of State Civil Services Officers and these were of; (1) Sh. S. Sarat Singh; (2) Shri A Sarat Chander Singh; (3) RK Modhusana; and (4) Shri RK Birendra Singh. The assessment of the first three recommendees as noted in the proceedings of the Selection Committee, is that all were "very good", and it is because of this that though they were last three in the list of eligible candidates they were preferred over their seniors. The fourth, namely RK Singh is the senior most among the eligible candidates and it is because of this that of the remaining five his name was recommended. The appellant was immediately below RK Birendra Singh in the list of eligible candidates and had been rated as "good", as was RK Birendra Singh; but as the Selection Committee could have recommended only four names, his name could not be recommended.

11. The aforesaid shows that no illegality had been committed by the Selection Committee or injustice had been caused in not recommending the name of the petitioner prior to 1981 for his promotion to Indian Administrative Service. We, therefore, do not read any infraction of Article 16 in the appellant having been promoted pursuant to the recommendation made in 1981 only. So, the appeal has to be dismissed, which we hereby do. No costs.

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