

Vijay Kumar, I. A. S.

Vs

State of Maharashtra and Others

Civil Appeal No. 3464 of 1987

(G. L. Oza, K. Jagannatha Shetty JJ)

30.08.1988

JUDGMENT

JAGANNATHA SHETTY, J. -

1. Vijay Kumar, appellant, is an IAS Officer in the cadre of the Maharashtra Government. In January 1986, the State Government of Maharashtra gave senior time scale to his juniors while denying the same to him. The appellant moved the High Court of Bombay for relief with Writ Petition No. 656 of 1986. Upon constitution of the Central Administrative Tribunal, the writ petition stood transferred to the Tribunal. The Tribunal by its order dated January 19, 1987 dismissed the petition. Hence the appellant has preferred this appeal by obtaining special leave.
2. Before the Tribunal, various and varied contentions were raised. The Tribunal has rejected all those contentions. It is, however, not necessary to consider the validity of all those conclusions of the Tribunal, since in our opinion, this appeal should succeed on a short point.
3. The main grievance of appellant before the Tribunal was that the confidential report relied upon to deny senior time scale has not been communicated to him. It is not disputed that the confidential report was not sent to the appellant by registered post nor there is any evidence to indicate that it was received by the appellant. The Tribunal after considering the material on record was of opinion that there is no proof that the appellant had received the government letter containing confidential remarks. Yet the Tribunal proceeded on the basis that there was nothing wrong in relying upon that confidential report to deny benefit to the appellant. Indeed, the conclusion of the Tribunal is very curious. It is a settled principle that an uncommunicated adverse report should not form the foundation to deny benefits to a government servant when similar benefits are extended to his junior.
4. What is further surprising for us is the stand taken by the government before the Tribunal. It appears, learned counsel for the State showed to the Tribunal copies of two letters addressed to the appellant by the Chief Secretary. The first letter was dated June 8, 1984 purporting to intimate the appellant about the gist of confidential report which we will presently consider. The second letter was dated May 2, 1986 which was obviously after the appellant filed the writ petition in the Bombay High Court. It was filed on March 20, 1986. The second letter, therefore, ought to have been totally excluded from consideration.
5. Even on the merits, the appellant appears to have a good case. The report said to have been communicated under the first letter obviously does not indicate anything against the appellant. It reads as follows :

He is serious, intelligent and a quiet type of officer and that he took interest in group discussions.

It however states that the appellant would not freely mix with his fellow probationers and he had a marked inferiority complex which had on occasion led to some problems. We do not find anything adverse in these remarks. He has been assessed as serious, intelligent and quiet type of officer. He took interest in group discussions. These are indeed the best qualities of any officer. The inferiority complex attributed to the appellant in that report cannot outweigh those good qualities. It is more often the superiority complex that causes harm to the public and not the inferiority complex.

6. The denial of senior time scale to the appellant, in any event, is therefore wholly unjustified and arbitrary. We must, therefore, allow the appeal directing the State of Maharashtra to give the appellant senior time scale with effect from the date on which his juniors were given. He should also be given consequential benefits as per rules regulating his service.

7. In the result, we allow the appeal, setting aside the order of the Tribunal. A direction shall issue as indicated above. The appellant is entitled to his costs. But all the CMPs filed by the appellant are, however, dismissed.

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