

(1996) 03 GUJ CK 0012
In the Gujarat High Court

B.N. Srinivasa Murthy

APPELLANT

Vs

Bharat Heavy Electricals Ltd. and Others

RESPONDENT

Date of Decision : 12-03-1996

Acts Referred:

Constitution of India, 1950 — Article 226, 226

Citation : (1996) 3 GLR 572

Hon'ble Judges : S.K. Keshote, J

Bench : Single Bench

Judgement

S.K. Keshote, J.—Heard the learned Counsel for the petitioner. This is a successive litigation by the petitioner before this Court. Earlier, he filed a Special Civil Application No. 3022 of 1983 which was decided on 23-12-1983. That writ petition related to a supersession in promotion made in the year, 1983. In the present Spl. Civil Application, the petitioner has questioned his supersession in promotion made in the year 1987-88. The petitioner claims the promotion to the post of Manager (E 4) from the post of Deputy Manager (E 3) on and with effect from 25th June, 1987 with all other consequential benefits under the guidelines which have been issued by the respondent No. 1. The cases for promotion are considered by the D.P.C. by making assessment under different heads and are allocated marks as under:

Factor Marks Performance appraisal (ACR) 50 Qualificatio 10 Experience 10 Suitability 30

2. The learned Counsel for the petitioner contended that 30 marks which have been allocated under the head of suitability moderation of appraisal by D.P.C. gives out a sufficient space to act arbitrarily to the Departmental Promotion Committee. No guidelines have been given out for allocation of these thirty marks. The Counsel appearing for the respondents refuted this contention of the Counsel for the petitioner. The Counsel for the respondents contended that there are sufficient guidelines provided for awarding thirty marks under the head of suitability moderation of appraisal. Reference has been made to Clause 3.2 of the

guidelines which reads as under:

3.2 Promotion E 3 and E 4 must have bigger content of achievements, contributions, leaderships, company loyalty and capacity to be dynamic in identifying with company's objectives.

3. This very question has been raised by the petitioner earlier and this Court upheld the allocation of thirty marks for suitability. Clause 3.2 of the guidelines has been considered and it has been held that for awarding of 30 marks under the head of suitability moderation of appraisal sufficient guidelines have been given. Shri Patel, the Counsel for the respondents states that the requisite data of the personnel are provided to the Departmental Promotion Committee as per the guideline 3.2. On the basis of the data provided and placed before the Departmental Promotion Committee the said Committee awards the marks to the officers. It is not the case of the petitioner in the present case that the relevant data were not placed before the Departmental Promotion Committee. Sufficient guidelines are there for making of the assessment of the officers for promotion to the post of Manager (E 4). The petitioner has been superseded but it cannot be said that it is the result of any arbitrary act of the Departmental Promotion Committee. It is a different thing that he could not have stood in comparative merits to some of the juniors. The D.P.C. in the year 1987 considered the case of eleven officers including the petitioner. The D.P.C. consisted of the following officers:

1. Shri J. Varadrajan, Additional General Manager, Khaparkheda Site, Western Region.
2. Shri V.P. Gupta, Deputy General Manager, Western Region.
3. Shri P.G. Srinivasan, Senior Manager, Vanakbori Site, Western Region.
4. Shri H.L. Bhatia, Deputy Manager (Personnel).

4. The cases of promotions of the personnel were considered according to the guidelines. The petitioner was not found suitable and hence he was not recommended for promotion. In the year 1988, the D.P.C. considered the case of eleven officers including the case of the petitioner. The D.P.C. consisted of the following officers:

1. Shri N.C. Latchanna, General Manager, Construction Management (SR and WR).
2. Shri J. Varadrajan, Additional General Manager, Khaparkheda Site, Western Region.
3. Shri V.P. Gupta, Deputy General Manager, Western Region.
4. Shri A. Gopalan, Manager (P and A).

5. The petitioner was not found suitable and was not recommended for promotion. This Court sitting under Article 226 of the Constitution will not sit as a

Court of Appeal over the decision of the Departmental Promotion Committee. The decision of the Departmental Promotion Committee may be challenged on the ground of mala fides but there is no allegation of mala fides against any of the members of the Departmental Promotion Committee constituted in the year 1987-88. Not only this, integrity, calibre and qualification of the members of the Departmental Promotion Committee were not at all put in issue. As stated earlier, it is also not the case of the petitioner that no data concerning the personnel who were considered by the Departmental Promotion Committee in both the years were before it. There is every reason to presume that the members of the Departmental Promotion Committee must have acted fairly and reasonably in the absence of any allegation of mala fides against the members of the Departmental Promotion Committee. No case is made out for interference by this Court under Article 226 of the Constitution of India.

In the result, this writ petition fails and the same is dismissed.