
(1978) 09 SHI CK 0009
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 159 of 1970

G.C. Dhiman

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 08-09-1978

Acts Referred:

Citation : (1978) 7 ILR HP 506

Hon'ble Judges : T.U. Mehta, C.J

Bench : Single Bench

Advocate : Roop Chand Chaudhry and Bhim Sen, for the Appellant; M.G. Chitkara, General and Kedar Ishwar, for the Respondent

Final Decision : Dismissed

Judgement

T.U. Mehta, C.J.—The Petitioner, who was at the relevant time serving as Lecturer (Physics), Government College, Dharmsala, has filed this writ petition for obtaining an appropriate writ quashing the notification dated 7th June, 1966 issued by the Secretary (Education) to the Himachal Pradesh Administration by which the Lieutenant Governor has on the recommendations of the Departmental Promotion Committee, promoted the Respondents Nos. 5 to 15 to the post of Senior Lecturers in the scale of Rs. 250-25-550/25-700. The claim of the Petitioner is that the Departmental Promotion Committee has erred in adopting a particular procedure for the selection of the Lecturers to the higher post of Senior Lecturers. In the main, the contention of the Petitioner is that according to the instructions issued by the Government for promotion to the post of Senior Lecturers the department was bound to settle the Select List of the officers for the prior years, namely, 1963, 1964 and 1965, but has failed in doing so, and has made this selection in the year 1966 when, for the first time, the Select List was prepared by the Departmental Promotion Committee. The Petitioner has further contended that in the years 1963, 1964 and 1965 no promotion to the post of Senior Lecturer was made with the result that the vacancies were allowed to be accumulated and ultimately when the selection was made in the year 1966

by the impugned order which is found at Annexure-D, the case of the Petitioner was not considered on any rational principles.

2. Short facts of the case forming the background of this petition can be stated as under.

3. The Petitioner was appointed as a Lecturer in Physics on Class III Non-gazetted post on 15th September, 1958. He was confirmed as Junior Lecturer on 15-9-1960, and was shown at Serial No. 53 in the joint seniority list. It appears that on 13th December, 1961 recruitment rules for the various posts of Education Department of the Himachal Pradesh Administration were framed, as found at Annexure-A. Annexure A shows that recruitment to the post of Senior Lecturers was to be made by promotion of Junior Lecturers with five years service in the grade. Method of recruitment was 75 per cent by promotion and 25 per cent by direct recruitment. The post was required to be filled by selection.

4. Prior to this, general instructions were issued by the Government of India, Ministry of Home Affairs, as to how promotion on the basis of selection from the lower grade was required to be made. At Annexure-B attached to this writ petition we find the instructions dated 17th February, 1955. These instructions are as under:

(i) Where promotion on the basis of "selection" from a lower grade is the recognised method of filling vacancies in a higher grade or posts, the competent authority should at all times maintain select lists of officers of the lower grade who are considered fit for promotion to the higher grade. These lists will be compiled on the basis of merit by duly constituted Departmental Promotion Committee and approved by the authority competent to make appointments to the higher grade. Subject to the provisions of the rules for recruitment to the higher grade or post and any general direction given by the appointing authority, the Departmental Promotion Committee may determine the number of officers to be considered for inclusion in the select lists. Ordinarily, it may not be necessary to consider more than five or six times the number, of vacancies likely to be filled during the period the list remains in operation. This need not, however, prevent the consideration of an officer known to possess exceptional or outstanding merit lower down in the seniority list. Where the select list follows an order different from that of the seniority list, the reasons for such departure should invariably be recorded. The lists should be reviewed and if necessary revised periodically, e.g. once a year, so as to serve as a continuous incentive to officers who have not already secured promotion to maintain and improve their position.

(ii) Officiating appointments to the higher grade, of whatever duration should as far as possible be made in the order in which names appear in the select list. Exceptions to this rule may become necessary where a number of vacancies are to be filled within a comparatively short period and it is convenient and desirable to make posting with due regard to the short term vacancies have to be filled on a local and ad hoc basis. An out of turn promotion in such circumstances should

not, however, give the officer concerned any superior claim in the matter of seniority or confirmation, which should be determined on the basis of the order in the select list.

(iii) An officer who has secured earlier officiating promotion on the basis of his place in the select list should also be confirmed earlier and thus enabled to retain the advantage gained by him provided that he maintains an appropriate standard. If he fails to do so, he may be reverted or his confirmation postponed. He should not, however, be denied his claim to confirmation merely because although he has maintained his standard, some one else promoted later is considered to have done even better.

(iv)....

(2) The present rule for determining the order of selection is that the names on the select list should be arranged strictly in order of merit, seniority being taken into account only when the officers concerned are considered to be of more or less equal merit. Difficulties have been experienced in the interpretation and actual working of this rule and it is proposed to consult Ministries separately about the manner in which it should be revised in order to avoid such difficulties and made the intention clear. In the meantime, the present rule should continued to be followed.

5. About two years thereafter, i.e. on 16th May, 1957, Government of India, Ministry of Home Affairs, issued an Office Memorandum explaining the principles for selection of the officers from lower grade to higher grade. This memorandum refers to a prior memorandum dated 5th August, 1955, which is not found in the record of the case and states that greater emphasis should be placed on merit as a criterion for promotion and prescribes the following guidelines for preparing the select list and making appointments to selection posts:

(1) Appointments to selection posts and selection grades should be made on the basis of merit, with regard to seniority only to the extent indicated below.

(2) The Departmental Promotion Committee or other selection authority should first decide the field of choice, i.e., the number of eligible officers awaiting promotion who should be considered for inclusion in the "Select List", provided, however, that an officer of outstanding merit, may be included in the list of eligibles even if he is outside the normal field of choice.

(3) From among such officers those who are considered unfit for promotion should be excluded.

(4) The remaining officers should be classified as "outstanding", "very good" and "good" on the basis of merit, as determined by their respective records of service. The "select list" should then be prepared by placing the names in the order of these three categories, without disturbing the seniority inter se within each category.

(5) Promotions should normally be made from the "select list" in the order in which the names are finally arranged.

(6) The "select list" should be periodically reviewed. The names of these officers who have already been promoted (otherwise than on a local or purely temporary basis) and continue to officiate should be removed from the list and the rest of the names along with others who may now be included in the field of choice should be considered for the "select list" for the subsequent period".

There is a Note attached to this memorandum which is in the following terms:

"The field of choice wherever possible should extend to five or six times the number of vacancies expected within a year.

6. The case of the Petitioner is that since he was appointed as a Junior Lecturer on 15-9-1958 and completed five years of service in that grade in the year 1963, he was eligible to be considered for the promotion post of Senior Lecturer in 1963. However, the department did not prepare any Select List of the Junior Lecturers for the purpose of promotion in the years 1963, 1964 and 1965. In paragraph 14 of the petition the Petitioner has specifically stated that select list was prepared for the first time in the year 1966 when a meeting of the Departmental Promotion Committee was held and prepared a Select List of 17 candidates, and recommended their promotion to the higher post of Senior Lecturers. It appears from the record kept by the department that the Petitioner being eligible his case was also considered by the Departmental Promotion Committee but the Committee did not recommend the name of the Petitioner for the higher post. Instead, the Committee found that other 17 officers, most of whom were junior to the Petitioner, were fit to be promoted to the higher post. The Government accordingly issued the impugned notification on 7th June 1966, by which the Respondents Nos. 5 to 15 were promoted.

7. The above promotion is challenged by the Petitioner mainly on two grounds, namely, (1) these promotions were made without preparing select list for prior three years, and (2) though there were vacancies in the years 1963, 1964 and 1965, these vacancies were allowed to be accumulated. According to the Petitioner, the promotions in question are liable to be set aside mainly on these two grounds. The Petitioner has, of course, challenged the assessment made by the Departmental Promotion Committee in putting the remarks of "good", "very good" etc. against the names of eligible candidates by raising the contention that the Departmental Promotion Committee has not adopted any understandable principle at the time of putting these remarks.

8. Respondents Nos. 5 to 11 have not filed any return, but return is filed on behalf of Respondents Nos. 1 to 4 who are the State of Himachal Pradesh and other officers concerned. In this return it is admitted that Select Lists were not prepared for the years 1963, 1964 and 1965 "as there was not sufficient number of vacancies for promotion by selection". It is further contended that in the case for promotion of the Petitioner was considered by the Departmental Promotion

Committee along with the case of other candidates, but the Petitioner could not get promotion to the higher post of Senior Lecturer "due to his lesser merit as compared to those already promoted to such posts".

9. It appears by reference to the joint seniority list that just below the name of the Petitioner was the name of one Shri Jagdish Ram Chaudhary, a Lecturer. This Jagdish Ram was also superseded by the impugned order of promotions dated 7th June, 1966. He, therefore, filed writ petition No. 71 of 1967 challenging the very notification dated 7th June, 1966 which is impugned by the Petitioner in this case. Therein also he raised exactly the same contentions as are raised by the present Petitioner. This Jagdish Ram filed in his writ petition with the result that he preferred Letters Patent Appeal No. 7 of 1968 which was heard and disposed of by Himachal Bench of Delhi High Court in the month of July, 1968. The Division Bench upheld the judgment given by the learned single Judge and dismissed the said Letter Patent Appeal.

10. One of the questions which was raised in that Letters Patent Appeal was that the promotions in question were liable to be set aside because the department had failed to prepare any Select List for the years 1963-1964 and 1965. The Division Bench repelled this contention holding that the Select List for these years could not be prepared as a ban was placed by the Government of India on the making of promotions and direct recruitment at the relevant time and, therefore, the object of maintaining the Select List did not exist during the years 1963" 1964 and 1965. But when the impugned promotions were made in the year 1966 they were made after preparing a Select List in accordance with the instructions and office memorandum issued by the Government of India.

11. The other contention of the Appellant Jagdish Ram in that Letters Patent Appeal was with regard to the accumulation of vacancies during the years 1963, 1964 and 1965. This contention was also repelled by the Division Bench on the same footing, namely, that these vacancies were allowed to be accumulated on account of the ban put on promotions by the Government of India.

12. In view of this decision given by the Division Bench of the Delhi High Court in Letters Patent Appeal No. 7 of 1968, Respondents Nos. 1 to 4 have in their return, relied upon the said judgment of the Division Bench and have contended that for the same reasons as given in that judgment even this writ petition should fail.

13. One of the grounds on which the writ petition is resisted by Respondents Nos. 1 to 4 is that the petition suffers from the vice of laches and delay. However, in view of the fact that a representation of the Petitioner was rejected by the Government in the year 1970 the learned Advocate General has not pressed for this ground.

14. The first question which arises to be determined is whether the impugned order of promotions, found at Annexure-D, dated 7th June, 1966, is liable to be set aside on the ground that the department failed to prepare Select List of the

concerned officers for the previous three years, namely, 1963, 1964 and 1965.

15. Now, on this, question the learned Advocate General contended that I should take judicial notice of the fact that at the relevant time the Government of India had put a ban on promotions and fresh recruitments and, therefore, there was no necessity of preparing Select List for these three years. I find that if there was any ban of the type as contended by the learned Advocate General, the Government should have taken a specific plea in that regard in the return filed by it. What happened in the writ petition, filed by Jagdish Ram, was that even there the Government did not plead any ban and the same was pleaded by one of the private Respondents who had relied upon one of the official files which was marked "X" and which showed a communication stating that in view of the impending changes in the administrative set up of the Union Territory of Himachal Pradesh, Government of India had decided that until the new administrative set up came into force, the Himachal Pradesh Administration and Territorial Council should not in the employees in the departments and should not make any promotions or direct recruitment to services and posts under them unless such recruitment or promotion was necessary for plan schemes. It is evident from the judgment given by the Division Bench in Letters Patent Appeal No. 7 of 1968, a copy of which is produced in the record of this case, that the Division Bench took this communication into consideration even though the Government had not pleaded the same.

16. So far as the case before me is concerned, the same has been filed after the above referred writ petition by Jagdish Ram was disposed of by the Division Bench. The Government, therefore, could have easily pleaded that ban in the return which is filed in answer to this writ petition. However, instead of pleading that ban the Government have merely stated in paragraph 5 of the return that Select List for the years 1963, 1964 and 1965 were not prepared because there was not sufficient number of vacancies for promotion by selection. In view of this I am of the opinion that Respondents Nos. 1 to 4 cannot be allowed to go outside the pleadings and contend that Select List for the years 1963. 1964 and 1965 were not prepared on account of the ban. Moreover, it is not clear from the judgment of the Division Bench in the above referred Letters Patent Appeal as to for what length of time the ban remained in force. Under the circumstances, I proceed on the basis that the Select List for 1963, 1964 and 1965 could not be prepared on account of the fact that there were not sufficient number of vacancies for promotion by selection. It should be noted here that it is an admitted position that as a matter of fact no promotions to the post of Senior Lecturers were made during the course of these three years.

17. The contention of the learned Advocate of the Petitioner was that even presuming that there was, not sufficient number of vacancies for promotion by selection during the course of the above referred three years, the rules required the Government to prepare the Select List for all the three years and, therefore, it was the duty of the department to prepare Select List for all the three years. I

do find some substance in this contention of the learned Advocate of the Petitioner.

18. The question, however, is what is the consequence if a Select List for a particular year is not maintained as contemplated by the above referred instructions contained in Government of India Memorandum, dated 17-2-1955 as further explained by the subsequent Memorandum, dated 16-5-1957.

19. While considering this question it should be noted that though these instructions as contained in, Annexures B and C are merely administrative instructions and, therefore, do not amount to statutory rules, they were bound to be followed as constituting a generally accepted policy decision with regard to promotions which were to be made on the basis of selection. The Administration was, therefore, not justified in not preparing, periodical Select Lists for these three years.

20. That position would, however, not solve the problem. The real question which is involved in this writ petition is whether any of the rights of the Petitioner is either infringed or abridged by this default of the Administration in not preparing the Select Lists for these three years. It need not be emphasised that the Petitioner can succeed in obtaining the writ of this Court only if it is found that the irregularity committed by the Administration in not preparing Select Lists for these three years has operated against him and has affected his legal rights in some manner. It is, therefore, necessary to consider what were the legal rights of the Petitioner for the purpose of obtaining promotion to the higher post of Senior Lecturer.

21. This again takes us to the rules for promotion. As already noted above, Annexure-A, which contains rules for the purpose of promotion to the post of Senior Lecturer, shows that this promotion is only by way of selection which means that this promotion cannot be made only on the basis of seniority. It must be made on the basis of merits and seniority would be relevant only if it is found that there are cases which are equal on merits. In such cases, seniority would be taken into account, and a senior person found equal in merits would be promoted. Therefore, it follows that the Petitioner cannot claim promotion simply because he is found eligible and senior to his colleagues. This position reveals that the only right which the Petitioner had was the right to be considered for promotion on merits. In other words, the Petitioner had the right to fall within the field of choice. He had no further right than this.

22. If the Petitioner's right was limited only to the extent of being considered for promotion on merits, the pertinent point which falls to be decided is whether this right of the Petitioner was in any manner infringed by the non-preparation of the Select List for the three years in question.

23. At this stage it is necessary to consider the role which the Select List for a particular year plays in obtaining promotion to the higher grade. It is obvious from the Government instructions contained in Annexures B and C, which are

quoted above, that promotions are made from the names entered in the concerned Select List. This shows that a particular Select List is important only for the purpose of promotions. In other words, if in a particular year there are no promotions which could be made the list for that year remains dormant. Now, the instructions contained in Annexures B and C further show that a list for a particular year is liable to be reviewed periodically, which means that for the next year the list which is made in the previous year would not be considered as final. The instructions contained in Annexures B and C show that even if a particular officer in the lower grade is not in the range of eligibility he can nonetheless be put in the Select List if his performance is found to be outstanding. The provision for periodical review of the List further suggests that even if an officer's name is included in the List in a particular year, if that officer is found to have shown a poor performance or if there is anything adverse against him, his name is liable to be taken out of the List in the subsequent period. Thus, with regard to his seniority arranged in the List, the List of a particular year is not final, if that List is not implemented in that year and is required to be carried forward to the next year when it is liable to be reviewed. This particular situation with regard to the Select Lists contemplated by the Government instructions makes it clear that mere entry of the name of an officer in the Select List in a particular year does not vest in him any inalienable right to get promotion. Therefore, it follows that if for some administrative reasons Select List for a particular year was not prepared and if in that year no promotion to the higher grade post was required to be made, the officers serving in the lower grade would not be prejudiced in any manner.

24. Now, so far as the facts of the present case are concerned, it is found that in the years 1963, 1964 and 1965, in fact no promotions to the higher grade post of Senior Lecturers were made by the department. These promotions were required to be made in the year 1966 when on 30th May, 1966 a Departmental Promotion Committee consisting of Chief Secretary, as Chairman and Finance Secretary and Secretary, Education, as members met. The Committee considered 39 permanent Lecturers in the lower grade post for promotion to the post of Senior Lecturers. The service record of these 39 eligible Lecturers who were working on the lower grade posts was taken into account, and categorization of the performance of these eligible candidates was made by the Committee in accordance with the instructions contained in Annexure-C referred to above. As a result of this categorization remarks of "good", "very good", "fair" and "poor" were made against the name of each of the candidates, and thereafter names of 17 officers were recommended for promotion. The list contains the name of the Petitioner at Serial No. 80. He was given the remark of "good" and therefore could not be put on the List. The List further shows that with regard to each eligible candidate the confidential records for years 1962-1963, 1963-64 and 1964-65 were considered. The previous confidential records do not seem to have been tabulised, but the proceedings of the Committee show that the confidential records of all the eligible Lecturers were considered for last five years. If this

statement found in the proceedings of the Committee is taken as correct, then it would mean that though the confidential records for all the last five years were not tabulised and only the records of three years were tabulised, the Committee had taken into account even the records which were not tabulised. I will touch this aspect of the matter at a later stage.

25. The above facts showing the manner in which the Committee has proceeded shows that though Select List for previous three years were not in existence the Committee prepared the required Select List at its sitting dated 30th May, 1966, and made its recommendations accordingly.

The question is whether apart from the right or wrong assessment made by the Members of the Committee, this particular procedure which is adopted by it by preparing the Select List for the first time in the year 1966 amounts in any manner to the infringement of Petitioner's right to fall within the field of choice for the purpose of getting promotion to the higher post. In my opinion, it cannot be said that the Petitioner's right to get his case considered for the purpose of promotion is in any manner infringed by this procedure. If a Select List for the previous years did not exist, they did not exist because there were no promotions to be made during these years. As already noted above, the Petitioner had no right in the preparation of Select List provided there were no promotions to be made. But when the promotions were required to be made in the year 1966 the Departmental Promotion Committee has approached the matter quite consistently with the instructions contained in Annexures B and C. In my opinion, therefore, the impugned promotions made in the month of June, 1966 to the post of Senior Lecturers cannot be declared as void simply because Select List for previous three years were not prepared.

26. The learned Advocate of the Petitioner contended that the promotions in question are liable to be set aside because the tabulation of the confidential reports shows that only three years confidential records were taken into consideration while, as a matter of fact all the five years confidential reports ought to have been taken into consideration by the Departmental Promotion Committee. In this connection it was pointed out that the Departmental Promotion Committee minutes of its meeting held on 30th April, 1966 specifically mention that five years confidential reports were taken into consideration. If that was so, the argument proceeded, there should have been tabulation of all these five years and not of merely three years as stated above. It was, therefore, contended that even on this ground the promotion found at Annexure D deserves to be set aside.

27. I am not impressed by these contentions, firstly because there is no rule or instructions going to show that the Departmental Promotion Committee ought to have considered five years confidential reports, and secondly because if only three years confidential reports were tabulised it was open to the Departmental Promotion Committee to look to the whole of the service record of eligible candidates. The confidential reports of the Petitioner for the prior two years,

namely, 1960-61 and 1961-62 were shown to me and were also shown to the learned Advocate of the Petitioner. I am satisfied that if these reports were taken into consideration it would not have helped the Petitioner in any manner as they are not complimentary to his service record. Under the circumstances, it matters not if the Departmental Promotion Committee has taken five years' confidential reports of the eligible candidates into consideration even though only three years reports were tabulised.

28. At this stage I would also like to dispose of one more contention which was raised on behalf of the Petitioner. The contention was that the tabulation of the confidential reports and the remarks which are put against each eligible candidate shows that the Departmental Promotion Committee has not proceeded with on any comprehensible principle in assessing the merits of the different candidates. Now, so far as his contention is concerned, I find that the writ petition itself does not contain any specific allegations against the Departmental Promotion Committee. The Petitioner in this petition has made a very vague allegation of "ulterior motive". Such general and vague allegations would not be helpful to the Petitioner for want of further particulars. If a Petitioner in a writ petition wants to succeed on the ground of mala fides, he should come forward with very specific allegations and should also point out the person against whom these allegations are made, so that the other side can have an opportunity to meet with these allegations. A vague allegation about an ulterior motive said to have been entertained by somebody at some stage would be totally worthless because it conveys nothing, and establishes nothing. It is with this background that we have to consider the acceptability or otherwise of the contention that the Departmental Promotion Committee has not assessed the merits of the eligible candidates on any understandable principle.

29. I have perused from the original file the assessment made by the Departmental Promotion Committee as regards the merits of each of the eligible officers. The original record shows that the Departmental Promotion Committee has taken into account the remarks noted in the confidential sheets of each officer for three years and has made its own assessment after looking to the sheets of all the officers for five years. As noted above, the tabulation of the remarks found in the Confidential sheets is only for three years. Therefore, I proceed on the assumption that the assessment made by the Departmental Promotion Committee is only on the basis of three years which are tabulated. Now the remarks found in the tabulation are as usual remarks such as "good", "very good", "satisfactory", "outstanding" etc. The Committee has also recorded its assessment on merits as "good, very good, fair, poor" etc. The argument was that the Committee's assessment based purely on confidential sheets is not found consistent with regard to each candidate. The only instance which was worthy of notice and on which the Committee's assessment was vehemently assailed was with regard to one officer named Priyavrat who is one of the Respondents in this petition. It was pointed out that the confidential report for this officer for the year 1962-63 showed him "good". The subsequent year's

report showed the remark "work and conduct excellent", while the report for the third year showed his work as "satisfactory". It was pointed out that if these remarks for the three years are taken into account the assessment of the work of this officer could not have been treated as "very good" as is done by the Departmental Promotion Committee. In this connection, the learned Advocate of the Petitioner pointed out to the assessment of "very good" with regard to other officers and compared the remarks in the confidential report for the three years relating to these other officers. It was contended that such a comparison would not justify the assessment of the work of this officer Priyavrat as "very good". On scrutiny of the table which the Departmental Promotion Committee has considered, it is found that third years' remark in the confidential report of this officer as "satisfactory" was not correctly typed and, therefore, this remark was encircled by a blue pencil and query marks were put against that circle. It was also written by the Departmental Promotion Committee that this remark was wrong. It was under these circumstances that the Committee assessed the work of this officer as "very good". Apart from this, when the assessment of the work of a particular officer is to be made by higher authorities, the said assessment cannot be judged by applying any mechanical formula or mathematical calculation. What has to be considered is whether the authority concerned has properly assessed the merits of a particular officer or not. The judgment about this assessment on merits cannot be adjusted in the pigeon holes of arithmetical calculations such as "good plus good" would make "very good". It need not be emphasised that the remarks such as "good", "very good", "satisfactory" "fair" cannot be construed to have been made with exactitude because each one of these different adjectives carries with itself different shades of meaning having a great subjective content therein. It is, therefore, evident that the merits of a particular officer cannot be properly categorised in just one or two words like "good" or "satisfactory". It is for the authorities which, assess the merits of a particular officer to take into account the whole service career of the officer concerned and, therefore, the assessment of the merits of that officer made by such an authority can scarcely become the subject matter of judgment by Court.

30. In this connection, the learned Advocate of the Petitioner drew my attention to the decision given by Himachal Bench of Delhi High Court in Durga Dass v. Union of India reported in 1969 S.L.R. 278, wherein the learned Judges have considered the categorisation made by Departmental Promotion Committee and have pointed out to certain inherent defects, suggesting that the Departmental Promotion Committee in that case was not guided by any reasonable formula in assessing the merits of different candidates. The Court found that the material which guided the committee in that case to put the outstanding remark against the candidates Sada Ram Sharma and Karam Chand Thakur was the same as in the case of the third candidate Devi Singh who was given the categorisation of "very good". The Court also found out some such more instances which in the opinion of the Court clearly indicated that the Departmental Promotion Committee in that case did not follow the directions contained in the Government

letter dated May 16, 1957, and categorised the merits of the candidates according to their own notions. I find that such an attitude cannot be attributed to the Departmental Promotion Committee in this case. Therefore, even apart from the position that this Court cannot sit on judgment over the remarks passed by the Departmental Promotion Committee, I find that there is nothing in the remarks which are passed by the Committee in this case which would induce me to the conclusion that the Committee has acted according to its own notions without any fixed principles in assessing the merits of the eligible candidates.

31. The second contention of the Petitioner is that apart from the want of Select "List for the three years stated above, the department had no justification for accumulating vacancies for these three years. I find that it is neither for the Petitioner nor for this Court to assess the exigencies of administration and it is primarily for those who are in charge of the administration to decide whether it is in the interest of administration to allow particular vacancies to be accumulated for a particular period. The extraordinary powers which High Courts exercise in writ jurisdiction are not meant to convert the Judges as Administrators for the simple reason that problems of administration are various and the facts and policies which guide the administration are not the matters open to judicial scrutiny. The Courts jurisdiction can be invoked only in cases wherein a substantive right of a citizen is infringed by an illegality or irregularity in the procedure. It is difficult to understand how illegality or irregularity has been committed by the administration if for some reason it is of the opinion that vacancies or a particular period should be allowed to be accumulated,- At any rate, the said accumulation has not in any manner affected any of the rights of the Petitioner. In fact, when these accumulated vacancies were filled in the year 1966 the case of the Petitioner was taken into account. Therefore, the mere fact that vacancies were allowed to be accumulated for three years docs not justify the striking down of the impugned order of promotions.

32. In this connection it was contended that vacancies were allowed to be accumulated for "ulterior motives". This is again a vague type of allegation without any specification as regards the type of motive, the person who entertained the motive, the purpose for which the motive was entertained, etc.

33. I, thus, find that there is no substance even in the second contention raised on behalf of the Petitioner in challenging the impugned order of promotion.

34. The learned Advocate of the Petitioner drew my attention to the Schedule which is attached to the writ petition which mentions, the comparative merits of the eligible candidates vis-a-vis the Petitioner. This schedule is prepared by the Petitioner himself. It is not known what was the source from which the Petitioner has prepared this schedule which is of no help to the Petitioner, because it was for the Departmental Promotion Committee to assess the respective merits of each of the eligible, candidates on the strength of his service record. It was requested that I should see service record of all the eligible candidates in order to know whether die promotions recommended by the Departmental Promotion

Committee are proper or not. I am afraid I cannot do this, because as stated above, it is not for this Court to sit in judgment, over the decision of the Departmental Promotion Committee.

35. This disposes of all the contentions raised on behalf of the Petitioner, in view of what is stated above this petition fails and the rule is discharged with costs.