

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 480  
T.A. No.

1986

DATE OF DECISION 8.12.86

Harbans

Petitioner

Shri R.L. Sethi

Advocate for the Petitioner(s)

Versus

Union of India

Respondent

Shri K.C. Mittal

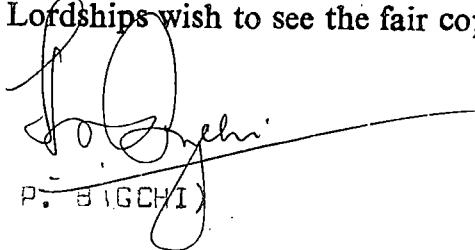
Advocate for the Respondent(s)

**CORAM :**

**The Hon'ble Mr. S. P. MUKERJI, ADMINISTRATIVE MEMBER**

**The Hon'ble Mr. H. P. BAGCHI, JUDICIAL MEMBER**

1. Whether Reporters of local papers may be allowed to see the Judgement ? Y
2. To be referred to the Reporter or not ? Y
3. Whether their Lordships wish to see the fair copy of the Judgement ? No

  
(H. P. BAGCHI)

  
(S. P. MUKERJI)

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DATE OF DECISION : 8.12.86

Harbans . . . Applicant

Vs

Union of India . . . Respondent

Shri R.L.Sethi . . . Counsel for Applicant

Shri K.C.Mittal . . . Counsel for Respondent

CORAM :

The Hon'ble Mr. S. P. MUKERJI, ADMINISTRATIVE MEMBER

The Hon'ble Mr. H. P. BAGCHI, JUDICIAL MEMBER

ORDER :

The applicant Shri Harbans has moved the Tribunal under section 19 of the Administrative Tribunals Act, 1985 praying that he should be promoted as Dafty in the office of Executive Engineer(Electricals), All India Radio, Delhi. Brief facts of the case are that the Executive Engineer(Electricals) circulated 2 vacancies of Dafty to other sister divisions in response to which the applicant who was working with the Director, News Services Division, All India Radio,

Delhi, applied and his application was duly forwarded. A selection was held and the petitioner was placed at No.1 in the panel. One Shri Dhaniram who was working as peon in the office of Executive Engineer(Civil), C.C.W. All India Radio, Delhi was placed at No.2 in the panel. The grievance of the petitioner is that whereas Shri Dhaniram was promoted as Daftry, the petitioner was not promoted. The contention of the respondent is that the applicant could not be relieved to take over as Daftry in the Electricals Division as it came to light that in accordance with the Recruitment Rules the vacancy of Daftry could be filled by promotion of only those peons who were working in the office where the vacancies arise. Since the applicant was working outside, in the ~~Services~~ & News Division, accordingly he was not eligible for consideration ~~of~~ <sup>for</sup> promotion in Electricals Division and the application was forwarded erroneously and considered for the post of Daftry under a misconception.

2. We have heard the arguments of both the parties and gone through the documents. Learned counsel for petitioner has emphatically argued that the appointment of Shri Dhaniram who was adjudged to be second to the applicant as Daftry having been made the petitioner could not be denied such promotion. He has further argued that the petitioner originally belonged to the Electricals Division now defunct. Therefore, he should not have been considered to be an outsider so far as the selection for the post of Daftry in the Electrical Division is concerned.

3. In the course of the arguments the learned counsel for respondents has produced a copy of order dated 28.11.86 wherein it was stated that Shri Dhani ram was reverted to the original post of Peon with effect from the same date. This order was passed presumably to avoid any sense of discrimination between the applicant and Shri Dhaniram. Thus, the plea of discrimination urged by the applicant in this case does not survive any more.

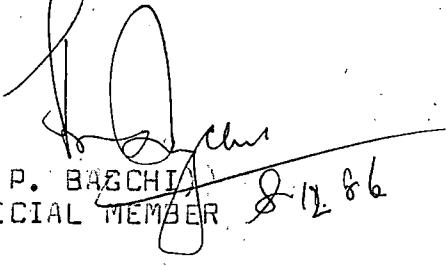
4. In accordance with the ~~Recruitment Rules~~ for the post of Daftry in All India Radio, appointments can be made 100% by promotion from the grade of peon in the same office with three years service in that grade. Accordingly, the applicant who was ~~in Service~~ working in the News Division was not eligible for the post of Daftry in Electricals Division. The argument of learned counsel for applicant that originally the applicant belonged to the Electrical Division and therefore he was allowed to be considered for the promotion for the post of Daftry cannot be sustained in view of the fact as revealed from the ~~U.O. No. 1(4) EE(E)/84-85~~ Executive Engineer (Electrical)'s note dated 14.2.86 to the following effect.

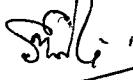
"1. Shri Harbans, Peon was borne on the strength of Electrical Division of Civil Construction Wing, All India Radio which was defuncted w.e.f. 1.4.82 and whole the staff of defunct Electrical Division was converted against the Civil Division No. II of Civil Construction Wing, All India Radio, New Delhi" (emphasis supplied)

From the above it is clear that the applicant belongs to the Electrical Division, Civil Construction Wing, till 31.3.82 whereafter the said Electrical Division

was declared to be defunct and the applicant was brought in <sup>to</sup> the Civil Division No. II of CCW, All India Radio with effect from 1.4.82. Thereafter as the same note would show even the Civil Division No. II was ordered to be shifted to Chandigarh which happened to be w.e.f. June, 1985 and Shri Harbans together with other surplus staff was transferred to <sup>the</sup> News Services Division, All India Radio, New Delhi.

5. Now it is abundantly clear that the applicant did not belong to the Electrical Division <sup>of</sup> the All India Radio on the crucial date when the vacancy for the post of Daftry was circulated in 1986. As such, in accordance with the recruitment rules the applicant ~~can~~ <sup>can</sup> not be deemed to be eligible for the post of Daftry. The action taken by the respondents therefore cannot be faulted. The application has no force and we have to reject it. Ordered as such. There is no order for costs.

  
(H. P. BAGCHI) 8/12/86  
JUDICIAL MEMBER

  
S. P. MUKERJI 8.XII.86  
ADMINISTRATIVE MEMBER

RB: 41807 Filed.