

(9)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 260 of 1986 X198
~~DAWN~~

DATE OF DECISION 29/07/1987

N R Goyal

Petitioner

Party in Person

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

N. S. Shevde

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P. H. Trivedi

: Vice Chairman

The Hon'ble Mr. P. M. Joshi

: Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal.

(10)

JUDGMENT

OA/260/86

29/7/87

29/07/1987

Per : Hon'ble Mr P H Trivedi : Vice Chairman

Under Section 19 of the Administrative Tribunals Act the petitioner has challenged the impugned order dated April 21, 1986 and June 27, 1986 asking him to appear before the Selection Board for certain tests for promotion to the post of Inspector of Works in the grade of Rs.425-700(R). The petitioner is now working as Additional Inspector of Works on officiating basis since 1978 he was posted in the Construction Department from 1963 to April, 1975 and had appeared in the suitability test for officiating Additional Inspector of Works in the scale of Rs.205-280/ 425-700. The petitioner bases his claim to not being subjected to another selection test on the following grounds :-

- a) he has officiated in a clear vacancy in the scale of Rs.425-700 since December 15, 1978.
- b) he has passed the suitability test for Additional Inspector of Works in the scale of Rs.425-700 in 1964 and has been empanelled as at Annexure-A.
- c) the petitioner is not liable to be subjected to another selection test in the Open Line after passing a selection test in the Survey and Construction Department for a post of the same scale in terms of circular of May 25, 1979.
- d) after the review and the restructuring scheme in the Engineering Department and its implementation from January 1, 1984 for promotion to one grade above and to higher posts on regular basis as are classified as selection post as a one time measure only seniority subject to scrutiny of record to judge suitability and not selection are procedures which are instructed to be applied in terms of orders dated 1-5-1984 and 27-6-1985 annexed at 'H' & 'I' and accordingly the petitioner is entitled to the relevant promotion not by selection but merely on the basis of his record.

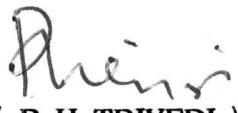
2. The respondents have taken the stand that promotions in Survey and Construction Department are governed on different principles and when promotions in open line department are to be considered, tests required for that departments have to be passed. Survey and Construction Department is a temporary department where due to the progress of construction of projects due to certain considerations of urgency and availability of personnel promotions are resorted to from a limited field but such promotions do not admit of a lateral movement in the open line department. In other words the contentions of the petitioner that he, having officiated is entitled to continue in the post and he having passed the tests in the Survey and Construction Department is not liable to tests for a post of the same grade in the open line department are pleas which are misconceived according to the respondents. So far as the restructuring scheme is concerned, the benefits of the modified procedure as a one time measure does not apply to the upgraded post and according to the respondents there being no up-gradation in the cadre of Inspector of Works Grade III, the petitioner cannot claim the benefits in this case.

3. We find there is much force in the contentions of the respondents. The petitioner has a right of continuing to officiate in the post of Additional Inspector of Works in the grade of Rs.425-700 in Survey and Construction Department both by virtue of his long period of working there and by virtue of the suitability test. He has passed in Survey and Construction Department in 1964. The petitioner has not produced a circular dated 25/5/1979 on which he relies for claiming that passing suitability test in Survey and Construction Department will protect him from the liability of passing a test in open line department. The respondents has denied this contention of the petitioner but has not produced this circular. In the circumstances we hold that the petitioner's contentions and the supports he seeks from the instructions and the

judgments of the Courts he relies on, do not apply to the question of open line posts. The respondent has shown that there is no up-gradation on the post of 425-700 (Annexure-A) to the circular dated 1/5/1984 (Annexure-H) shows that the existing 55% posts of Inspector of Works etc. in the scale of Rs.425-700 have been revised to 33%. This is the selection post and a test for this has been prescribed which the petitioner is liable to take.

4. For the above reasons, we hold that the petition has no merit and do not allow it.

There shall be no order as to costs.


(P H TRIVEDI)
VICE CHAIRMAN


(P M JOSHI)
JUDICIAL MEMBER