

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH

(4)

NO  
Appointment/  
Promotion

O.A. No.  
TAXNOK

61      ~~10~~ of 1989

DATE OF DECISION 15th February, 1993.

Shri Bhimrav K. Salunka. Petitioner

Shri Sailesh Parikh for  
Shri Girish Patel Advocate for the Petitioner(s)

Versus

Union of India and Others Respondent

Shri Akil Kureshi Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C.Bhatt : Member (J)

The Hon'ble Mr. V.Radhakrishnan : Member (A)

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 ?

Shri Bhimrav K. Salunka,  
Quarter No. 10.,  
Fire Colony,  
Heavy Water Plant,  
Post : Fertiliser Nager,  
Dist. Vadodara.

.....Applicant.

(Advocate : Shri Sailesh Parikh for  
Shri Girish Patel)

Versus

1. Union of India,  
(Notice through  
the Secretary,  
Ministry of Science and Technology,  
Department of Atomic Energy,  
New Delhi.

2. Works Manager,  
Heavy Water Plant,  
PO : Fertiliser Nagar ,  
Dist. Vadodara.

3. Administrative Office-r,  
Heavy Water Plant,  
PO : Fertiliser Nagar,  
Dist. Vadodara.

4. Shri T.P.Sharma,  
Quarter No.  
Fire Colony,  
Heavy Water Plant,  
PO : Fertiliser Nagar,  
Dist. Vadodara.

....Respondents.

(Advocate : Shri Akil Kureshi)

ORAL JUDGMENT

O.A.NO. 61 OF 1989. Dated :15th Feb.1993.

Per : Hon'ble Mr.R.C.Bhatt : Member (J)

This application under Section - 19 of the  
Administrative Tribunals Act, 1985, is filed by the  
applicant, Fireman-A Grade working in Heavy Water Plant,  
Vadodara, seeking the relief of declaration of the  
appointment of respondent no.4, as leading Fireman,  
violative of the prescribed recruitment norms for the post  
of leading fireman and for quashing the said appointment

of respondent no.4 and for further directions to respondents to appoint the applicant to the post of leading fireman.

3. The case of the applicant as pleaded in the application is that he has passed SSC Examination and is working as Fireman-A Grade in Heavy Water Plant, Vadodara, w.e.f. 27.7.1981. It is alleged by him that the circular Annexure-A/1, dated 13th/16th May, 1988, was issued by the respondents inviting applications for the appointment to the post of leading fireman from the employees of the Plant who fulfilled the prescribed norms. According to the applicant, he applied for the post of leading fireman pursuant to the said circular Annexure-A/1. He has alleged in the application that there were other candidates who applied for the said post namely T.P.Sharma, i.e., respondent no.4, and one Shri Sonwane. It is the case of the applicant that the respondent no.4, has joined the Heavy Water Plant, Vadodara, as Fireman in December, 1982. The candidates were interviewed on 20.9.1988. Ultimately the respondent no.4 was declared successful.

4. The main grievance of the applicant is that the respondent no.4, does not fulfil the prescribed norms for appointment for the post of leading fireman in as much as he has not completed 7 years experience as Fireman in a well-established fire service organisation, which is one of the essential requirement for eligibility to the post of leading fireman. It is the case of the applicant that the respondent, no.4, got himself appointed making a false

representation that he possessed 7 years experience and produced a false certificate of experience from Dynamic Manufacturing Corporation, Vadodara. According to the applicant, therefore, the appointment of respondent no.4, is bad in law. It is the case of the applicant that he possessed on the date of interview 7 years experience with Heavy Water Plant and fulfils all the conditions of appointment for the appointment of that post and hence he should be appointed as a leading fireman. The applicant made a representation Annexure-A/2, dated 20th September, 1983, accordingly, but the Administrative Officer of the respondents rejected his representation vide letter dated 16th/17th December, 1988, Annexure-A/3.

5. The respondents have filed reply contending that the screening committee had considered the applications received for the post of leading fireman on the basis of past experience. They contended that in the trade test and on the overall performance, the screening committee consisting of five members found the two persons fit for the posts in the order of merit namely Shri T.P. Sharma, (respondent No.4) and Shri B.K.Salunka, (the applicant). It is contended that as only one vacancy was available the respondent no.4, was appointed. It is contended that the screening committee has taken into consideration the relevant norms. The respondents have denied in the reply that respondent no.4, did not fulfil the prescribed norm for the appointment as alleged.

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The respondents have produced with the reply, the certificate given by Dynamic Manufacturing Corporation dated 26th November, 1988, about the past services of respondent no.4.

6. The applicant has filed rejoinder contending that the certificate which was obtained by respondent no.4, was not of a fire service organisation, and therefore, the respondent no.4, could not include the period of his service in the Dynamic Manufacturing Corporation, which was a Manufacturing division for considering 7 years service, for eligibility for appointment to the post of leading fireman.

7. We have heard the learned advocates and have perused the documents on record. At the time of hearing, the learned advocate for the applicant submitted that the present applicant is now promoted to the post of leading fireman from 3.5.1989. Hence, according to him the only grievance of the applicant is that he should be given the said benefit from the deemed date on which the respondent no.4, was promoted to the post of leading fireman. Learned advocate for the applicant submitted that the promotion of respondent no.4, was made by respondents not as per the requirements shown in in as much as the respondent no.4, had not 7 years experience as fireman in a well established fire organisation. He drew our attention to the c

by the respondents given by Dynamic Manufacturing Corporation on 26th November, 1982, which says that the applicant was working in that organisation since February, 1981. The learned counsel for the applicant submitted that respondent no.4, had worked in that corporation for the period mentioned therein which was manufacturing Fire Fighting materials Division and it was not a fire service organisation. Therefore, the main attack of the learned advocate for the applicant is that the screening committee has fallen into error in interpreting the certificate given by the Dynamic Corporation to respondent no.4, as if it was the service of the respondent no.4, in the fire service organisation. He submitted that the certificate shows that it was the manufacturing division in which respondent no.4, was serving and therefore, he submitted that as a matter of fact the applicant ought to have been appointed by respondents instead of respondent no.4.

8. The learned advocate for the respondents submitted that the post for which the applications were invited was for direct recruit post and not for promotional post. He submitted that the screening committee had considered all the factors before appointing respondent no.4, to the post of leading fireman and the applicant could not have any grievance on that point.

9. We have heard the learned advocates and we find that the respondents have not produced the materials to show whether the screening committee appointed respondent no.4, only on the basis of the certificate of Dynamic Corporation dated 26th November, 1982, to consider the experience of respondent no.4, or there was any other material also available to the screening committee to select the respondent no.4. It would also be necessary to know if the respondent no.4's previous service in Dynamic Manufacturing Division could be considered as a experience in the fire service organisation, as required as per circular Annexure-A/1. Learned advocate for the applicant submitted that this Tribunal can decide that point on the strength of the certificate which is produced by the respondents. We do not agree with this submission because the screening committee has decided this point on the strength of data available to it while we do not have that material before us except this certificate. Thus in absence of complete material before us we would not ourselves like to function as the screening committee which is a committee of experts which can consider and decide as to whether the services put by respondent no.4, in Dynamic Corporation can be considered as a service in the corporation required as per circular

Annexure-A/1. Therefore, the respondents may put this case before the screening committee again to consider this aspect and to give its final decision. The screening committee on the availability of the data before it to decide whether the experience put by respondent no.4, in Dynamic Corporation could be or could not be considered having regard to the circular Annexure-A/1 for the appointment as a leading fireman. However if its decision is against respondent no.4, the respondent no.1 to 3 instead of quashing the appointment of respondent no.4, may give<sup>1</sup> the same benefit to the applicant which they have given to respondent no.4, as the applicant is now promoted to that post.

10. Hence we pass the following order :

" ORDER

The application is partly allowed. The respondents are directed to put the file of selection about the appointment of the leading fireman before the screening committee to decide as to whether on the data available before it including the certificate of Dynamic Corporation dated 26th November, 1982, given to the respondent no.4, whether the period of service mentioned therein can be considered as a service in a well established fire service

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organisation as required as per circular Annexure-A/1. If the screening committee in case decides on the strength of the data available before it that the services of respondent no.4, in Dynamic Corporation could not be considered as ~~an~~ experience in a well established fire service organisation, but it was in the Corporation which was the manufacturer of fire fighting materials, then the respondent 1 to 3, instead of quashing the appointment of respondent no.4 on that ground to give the same benefits to the applicant from the deemed date of promotion which they have given to respondent no.4. The applicant having been promoted as a leading fireman from 03.05.1989, his grievance about the promotion does not survive except the period from the date on which the respondent no.4 was promoted to that post. The respondent no.1 to 3, to put the case before the screening committee as ~~in~~ obtain decision ~~in~~ as early as possible and to ~~decide the same~~ within three months from the receipt of the order of this Tribunal. If the screening committee takes decision adverse to the applicant and ~~in~~ in favour of respondent no.4, the applicant may according to law approach the Tribunal. The application is accordingly, disposed of. No order as to costs.

*Abu*  
(V.Radhakrishnan)  
Member(A)  
15.2.93.

AIT

*Rishi*  
(R.C.Bhatt)  
Member(J)  
15.2.93.