

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

O.A. NO. 93 OF 1991.

~~**Ex. No.**~~

DATE OF DECISION 11-8-1995

Pragnaben Chhotalal Bhatt, Petitioner

Mr. D.R. Chaudhary, Advocate for the Petitioner (s)

Versus

Union of India & Ors. Respondent s

Mr. Akil Kureshi, Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. N.B. Patel, Vice Chairman.

The Hon'ble Mr. K. Ramamoorthy, Admn. Member.

JUDGMENT

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

/ N^o

(7)

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Pragnaben Chhetalal Bhatt,
Hindu, Adult, Occ: Service
Residing at Rajkot
Address: 21/158 A.G. Staff Quarters,
Near University,
Rajkot.

..... Applicant.

(Advocate: Mr.D.R. Chaudhary)

Versus.

1. Union of India,
Through its Secretary,
Ministry of Finance,
(Central Board of Excise
& Customs) New Delhi.

2. The Collector,
Central Excise & Customs,
Vadodara.

..... Respondents.

(Advocate: Mr. Akil Kureshi)

J U D G M E N T

O.A.No. 93 OF 1991

Date: 11-8-1995

Per: Hon'ble Mr. K. Ramamoorthy, Member(A)

The present application has been filed against the applicant's non-selection in 1989 when she was being considered for the post of Inspector.

2. The short facts of the case are as under:-

The applicant had joined the Central Excise and Customs Department on the post of Woman Searcher since 12-7-1979. On completion of 7 years of service, as per the recruitment rules, she was entitled for being considered for promotion against 25% quota provided for the post of Inspectors. She had appeared in the selection process and had passed written examination and physical standards test. She was called for oral interview which was held on 17-8-1989

..... 3/-

"5(f) That it is likely that she has been succeeded in the oral interview looking to her reply to the questions (9 above) and performance, but due to malafide intention the officers of the respondent No.2 have not included her name in the promotions orders dated 29-8-1989. Therefore, the respondent No.2 is called upon to produce the selection proceeding of the oral interview conducted on 17 to 19-8-'89 in this matter before this Hon'ble Tribunal."

The respondents have made available the proceedings of the DPC from which it is seen that ^{ed 16 12} ~~16~~ marks were ^(Sixteen) allotted to the applicant which is below the minimum marks of 18 being the requirement as considered by the respondents. It was contended that the ground of malafides in assigning marks is not true and correct. The counsel for the respondents also drew our attention to the well-established position as laid down by the Supreme Court of India in the case of Madan Lal & Ors. Vs. State of Jammu & Kashmir & Ors. reported in 1995(1) SLJ page 369 that "Merely on the basis of petitioners' apprehension or suspicion that they were deliberately given less marks at the oral interview as compared to the rival candidates, it cannot be said that the process of assessment was vitiated." In a matter such as this, therefore, there is no reason for the Tribunal to interfere with the assessment as given, namely 16 marks, by the interview board unless it is shown that the assessment was vitiated by malafides. There is no basis for holding so. The contention of the applicant that she should be considered as having passed the selection test on the ground that she had performed well in the interview is therefore, not acceptable.

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as one of the 227 persons who had been called for the interview. However, in the list of 58 persons promoted, her name did not appear. It is the contention of the applicant that she had performed well in the interview and her C.Rs were also upto the mark and, therefore, there was no reason why her name should not have appeared in the final list of promotees.

3. In the reply, the respondents have stated that in the selection procedure, the department had followed the instructions as available with them as contained in the Department of Personnel letter dated 27th September, 1965. As per this procedure, the applicants have to undergo an interview. The interview board was constituted of senior officers and this interview board, after interview, gave her marks below the minimum marks of 18 as required under the rules in 1968. In view of the fact that the applicant had obtained only 16 marks in the interview, i.e. below the minimum marks of 18, the question of her inclusion in the panel did not arise and the Board had not even gone into the question of assessment of her C.Rs. It is the contention of the applicant that her marks obtained in the interview board cannot be subjected to a reassessment merely based on the candidate's own assessment of his/her performance. It is however, true that the applicant had passed subsequent selection process and had been promoted in 1991.

4. In the application, the applicant has stated as under:

5. In view of the fact that the promotion to the post is through a selection process, the fact that juniors are promoted cannot itself be found to be discriminatory act. Since the selection has been through a process under the rules, it cannot be stated to be an act violative of Articles 14 and 16 of the Constitution.

6. In the result, therefore, the application stands dismissed. No order as to costs.



(K. Ramamoorthy)
Member (A)



(N.B. Patel)
Vice Chairman

kvr.