

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

OA/143/91 & OA/144/91

Date of Decision 13.10.99

Smt.N.H.Bhatt & :Petitioner (s)

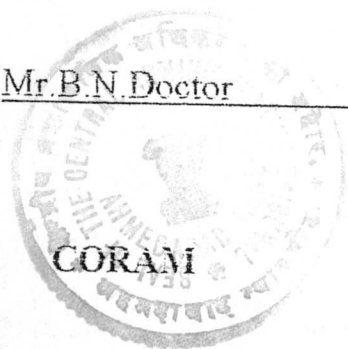
Shri Vansfoda Madhurao

Dr.Kiran Yainik : Advocate for the petitioner(s)

Versus

Union of India & Ors. : Respondent(s)

Mr.B.N.Doctor :Advocate for the Respondent(s)



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

The Hon'ble Mr. P.C.Kannan : Member (J)

OA/143/91

Smt. N.H. Bhatt,
22, Shri Vallabhacharya Society,
Jivraj Park,
Ahmedabad-380 051

: Applicant

OA/144/91

Shri Vansoda Madhuraao Laxmanrao,
124, Ambli Street,
Rupapari, Inside Dariyapur,
Near Fati Masjid,
Ahmedabad.

: Applicant

Advocate: Dr.Kiran Yajnik

Versus

1. Union of India,
(Notice to be served through
the Secretary, Ministry of
Commerce, Govt. of India
New Delhi)

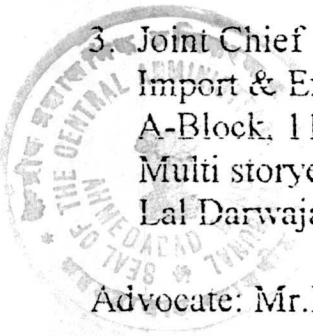
2. Mr. R.Tiwari, or his
Successor in office.
Joint Chief Controller of
Import & Export .

South-East Wing, New Marine
Line, Churchgate,
Bombay-400 020.

3. Joint Chief Controller of
Import & Export,
A-Block, 11th Floor,
Multi storyed Building,
Lal Darwaja, Ahmedabad-1.

: Respondents.

Advocate: Mr.B.N.Doctor



COMMON JUDGMENT
OA/143/91 & OA/144/91

Date: 13-10-99

Per: Hon'ble Mr. V. Radhakrishnan

: Member(A)

Both the above O.As being similar in nature are being dealt with by a common judgment.

2. The applicants in both the O.As. have approached this Tribunal for the following reliefs:-

" A) Allow this application and quash and set aside the memorandum bearing No.15/3/89/Admn/1023-V dt.27.3.91 and reinstate the applicant in service with full back wages and with all other consequential benefits.

B) Pass such other and further orders as may be deemed fit and Proper in the facts and circumstances of this case."

3. The respondents have filed reply. They have stated that the applicants were originally working as LDCs with the respondents on purely temporary basis with effect from 12.1.1979 through the Regional employment exchange with the condition that they will be replaced by the suitable candidates nominated by the Staff Selection Commission but the services of the applicants were continued with artificial breaks which were later on condoned in 1982. The applicants were also confirmed as LDCs with effect from 23.8.1982 by the DPC meeting and also promoted as UDCs vide order dated 3.5.88 on the recommendation of DPC . They have stated that examination of such candidates who recruited on ad hoc basis was

conducted by the Staff Selection Commission and those persons who did not qualify were terminated. The applicants appeared in 1982 examination but failed. Therefore, the applicants' case was placed before the DPC which met on 13.9.90. It was decided by the said committee that the applicants' appointment is irregular and against the recruitment rules and took the decision to exclude the name of the applicants from the final seniority list. Hence, notice of termination was issued under Article 311(2) of the Constitution of India and relevant CCS (CCA) Rules 1985.

4. Dr. Yajnik, learned advocate appearing for the applicants argued that once the applicants were confirmed as LDCs and also given promotion for the posts of UDCs, the respondents could not re-confirm the applicants and terminate them from service as it is arbitrary exercise of power violating of Article 14 of the Constitution of India. Further he brought to our notice the judgment of the Bombay Bench in OA/162/91 decided on 22.4.93 in which similarly placed officials following the judgment in OA/201/91, 204/91, 205/91, 207/91 and 576/91. The Bench has held that "it is the settled principle of law that no one is to suffer because of mistake or laches and delay on the part of the Govt. as has been held in the case of State of Maharashtra vs. Jagannath Achyut Karandikar AIR 1989 SC 1133 Consequently, the Tribunal has held that initial appointment and confirmation as Stenographers of the applicants in those cases could not be struck down at that stage but directed that so far as their future promotion is concerned, regular selections were to be held considering the eligibility of those applicants who would be deemed as permanent stenographers and held that the initial appointment on regularisation as LDCs of the applicants cannot be struck down at this stage.

5. Mr. B.N. Doctor, learned counsel appearing for the respondents seriously argued that even though chances were given to the applicants to

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appear in the examination and they appeared therein and they failed in the same. Accordingly, the applicants are to be treated as disqualified to continue in service.

6. After hearing both the learned advocates, we are of the opinion that the judgment in OA/162/91 is clearly applies in the present case and accordingly, we allow the O.As. and quash and set aside the Memo at Annexure A-8 dated 27.3.91. The interim order already in operation is made absolute.

No costs.

(P.C.Kannan)
Member(J)

aab

scd) -

(V.Radhakrishnan)
Member(A)

દાખલા
દ્વારા દાખલ કરવામાં આવેલ છે.
દાખલ કરેલ તારીખ: 22/10/99
દાખલ કરેલ સમય: 12:00 PM
દાખલ કરેલ સ્થળ: Ahmedabad Bench
Central