

CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH

O.A.NO. / 88/92

~~E.A.NO.~~

DATE OF DECISION 2/7/99

Mr.Prakesh Hemrajani Petitioner

Mr.M.R.Anand Advocate for the Petitioner [s]  
Versus

Union of India & Ors Respondent

Mr.B.N.Doctor Advocate for the Respondent [s]

CORAM

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

The Hon'ble Mr.A.S.Sanghavi : Member (J)

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 ?

(5)

Mr.Prakesh Hemrajani,  
G-81/967, Shivam Appartment,  
Near Vyas Vadi,  
Nava Vadaj,  
Ahmedabad.380 013.

..... Applicant

( Advocate : Mr.M.R.Anand )

VERSUS

1. Union of India  
( Notice to served though the  
Secretary, Ministry of Industry,  
Department of Industrial Development  
7, Rajendra Place,  
Shethi Bhavan  
6th floor,  
New Delhi : 110008.

2. The Regional Development  
Commissioner for Cement Industries,  
Khetan Bhavan, 2nd floor,  
8, Jamshedji Tata Road,  
Bombay. 400 020.

3. Assistant Regional Development  
Commissioner for Cement Industries,  
Sub-Regional Office,  
Ankur-Building, 4th floor,  
Opp. Dinbhai Tower,  
Mirzapur Road,  
Ahmedabad.

.....

Respondents

( Advocate : Mr.B.N.Doctor )

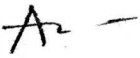
ORAL ORDER  
O.A./88/92


DATE : 2.7.99

Per : Hon'ble Shri V.Radhakrishnan

: Member(A)

Neither the applicant nor his counsel is present. Dismissed for default.

  
( A.S.Sanghavi )  
Member (J)

  
( V.Radhakrishnan )  
Member (A)

nkk


(6)

तारीख  
DATEकार्यालय टिप्पणी  
OFFICE REPORTआदेश  
ORDER

24.11.99


M.A.S.T./540/99


Mr.K.K.Shah states that he will supply a copy of MA to other side. Mr.Doctor says that after receiving a copy of MA, he would require short time. Registry is directed to give regular number to the MAst/540/99. Adjourned to 23.12.99, for filing reply.

  
(A.S.Sanghavi)  
Member (J)

nkk


Two weeks time is granted for removing the office objection. Adjourned to 31.1.2000.

  
(A.S.Sanghavi)  
Member (J)

  
(V.Radhakrishnan)  
Member (A)

nkk

At the request of Mr.M.R. Anand, one week time is granted to remove the office objection. Adjourned to 25.2.2000.

  
(V.Radhakrishnan)  
Member (A)

nkk

Regular number is given

pg  
151241

3.12.99

.1.2000

Advocate Mr. K.K. Shah has made representation at 30.12.99 to withdraw MA 689/99, which place on file.  
pg  
1-2-2m

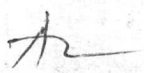
तारीख  
DATE

कार्यालय टिप्पणी  
OFFICE REPORT

आदेश  
ORDER

25.2.2000

In view of the call given by Bar Council and Bar Association, the advocates have abstained from work today, hence adjourned to 10.3.2000.

  
(A.S. Sanghavi)  
Member (J)

nkk

10.3.2000


Mr.K.K.Shah says that he is no more appearing on behalf of the applicant. So his name may be not shown as applicant's counsel. Mr.M.R.Anand has already file VP and therefore there is not need further VP.

M.A./112/2000

Mr.Doctor fairly says that he has no objection for restoration of MA/689/99. Hence MA/122/2000 is allowed and MA/689 is restore to file. MA stands disposed of. No order as to cost.


M.A./689/99

Mr.Doctor prays for time to file rep to the MA/689/99. Hence adjourned to 13.4.2000.

  
(A.S. Sanghavi)  
Member (J)

nkk



तारीख DATE	कार्यालय टिप्पणी OFFICE REPORT	आदेश ORDER
13.4.2000		<p data-bbox="877 309 1495 551">Mr. K.K. Shah has withdrawn from this case. His name may not be shown as the counsel for the applicant.</p> <p data-bbox="1037 631 1292 677"><u>MA/689/99 :-</u></p> <p data-bbox="877 734 1495 1102">Heard Mr. Doctor. For the reasons stated in the MA, MA is allowed and the order in OA/88/92 is recalled and the OA restored to the file. MA/689/99 stands disposed of.</p> <p data-bbox="877 1182 1495 1297">OA/88/92 may be placed for final hearing on 3.5.2000.</p> <p data-bbox="1244 1377 1495 1515"> (P.C. Kannan) Member (J)</p> <p data-bbox="829 1538 909 1572">Pkn</p>




तारीख  
DATE

कार्यालय टिप्पणी  
OFFICE REPORT

निर्णय आदेश  
ORDER

3.5.2000

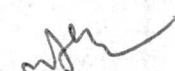
Adjournment is prayed for on behalf  
of the applicant. Adjourned to 12.6.00.


  
(A.S. Sanghavi)  
Member (J)

nkk

12.6.2000

Mr.M.R.Anand and Mr.Doctor are  
present. At the request of Mr.Anand,  
adjourned to 14.6.2000. No further  
adjournment will be given.

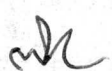
  
( M.P.Singh )  
Member (A)


  
( P.C.Kannan )  
Member (J)

nkk

14.06.2000

Heard. Order dictated.

  
(M. P. Singh)  
Member (A)

  
(P. C. Anan)  
Member (J)

mb

mb

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**CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH**

**O.A.no. 88/92**

Date of decision : 14.06.2000

Mr. Prakash Hemrajani : Petitioner [s]

Mr. M. R. Anand & Mr. K. K. Shah : Advocate for the petitioner [s]

Versus

Union of India & Ors. : Respondent [s]

Mr. B. N. Doctor : Advocate for the Respondent [s]

**CORAM :**

**THE HON'BLE MR. P. C. KANNAN** : MEMBER [J]

**THE HON'BLE MR. M. P. SINGH** : MEMBER [A]

**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 ?

*Don*

*Don*

Prakash Hemrajani,  
S/o. Parshram Hemrajani,  
Address 30, Rajmandir Tenaments,  
Near G.S.T., Railway Crossing,  
Ranip, P.O. Digvijaynagar,  
Ahmedabad - 382 470.

= Applicant =

**Advocate : Mr. M. R. Anand & Mr. K. K. Shah**

Versus

1. Union of India, (Notice of the petition to be served through the Secretary, Ministry of Industry, Department of Industrial Development, 7, Rajendra Place, Shethi Bhavan, 6<sup>th</sup> floor, New Delhi 110 008.
2. The Regional Development Commissioner for Cement Industries, Khetan Bhavan, 2<sup>nd</sup> floor, 8, Jamshedji Tata Road, Bombay 400 020.
3. Assistant Regional Development Commissioner for Cement Industries, Sub-Regional Office, Ankur Building, 4<sup>th</sup> floor, Opp. Dinbai Tower, Mirzapur Road, Ahmedabad - 380 001.

= Respondents =

**Advocate : Mr. B. N. Doctor**

**ORAL ORDER  
O.A 88 of 1992**

**Date : 14.06.2000**

*An*



(9)

- 3 -

Per Hon'ble Shri. P. C. Kannan : Member (J).

Heard the learned counsel Mr. M. R. Anand for the applicant and Shri. B. N. Doctor, counsel for the respondents. The applicant joined the services of the respondents as LDC in October'74. The case of the applicant is that he was the senior most LDC in Ahmedabad office of the respondents and he served the respondents for more than 18 years. The applicant has been promoted on adhoc basis as UDC right from August'81. However, he was not promoted on regular basis. In May'90, one Mr. B. M. Amin who was working as UDC was promoted as Assistant and the post of UDC fell vacant on regular basis. The applicant immediately requested the respondents for promoting him on the said vacant post. However, no action was taken by the respondents to promote him. The applicant also submitted a number of representations to the respondents requesting them to fill-up the vacancy of UDC as there was a possibility of the department being closed in which case, he will have to join the queue of LDCs elsewhere, as if he were a fresh recruit. The applicant did not receive any reply. He therefore, contends that the respondents ought to have promoted him on regular basis in the post of UDC which was available since 2<sup>nd</sup> May, 1990.

Per

(10)

- 4 -

2. The respondents in their reply have stated that when Mr. Amin was promoted as UDC in Ahmedabad office, a regular vacancy of UDC was available. However, a ban was imposed by the Ministry of Industries on filling up of vacant posts either by giving promotion or by <sup>Dr</sup>direct recruitment<sup>Dr</sup>. In the circumstances, no promotion was given to any one to the said post thereafter. This ban was lifted on or about 27.01.92 and as per the seniority list of LDCs, Shri. Chachad who was senior to the applicant was promoted by order dated 20.02.92. The respondents further stated that the entire establishment of Development Commissioner for Cement Industries was wound up w.e.f. 01.03.92. In the facts and circumstances, the respondents stated that the O.A is devoid of any merit.

3. Mr. Raval, appearing on behalf of the Mr. Anand submits that there were vacancies available in May'90 and the applicant could have been promoted on regular basis as no senior to him was willing to come to Ahmedabad and join the said post. He also referred to the earlier judgments of this Tribunal in which this Tribunal had held that when eligible seniors were not willing to accept promotion, the next available <sup>Dr</sup>junior<sup>Dr</sup> should be promoted on regular basis. He further


Dr

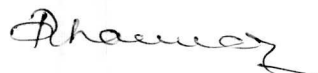
submitted that had the applicant been promoted as UDC in 1992, he would have been declared as UDC at the time of winding-up of the organisation and would have got the benefit of the said promotion. He also submitted that Mr. Chachad who was promoted by order dated 20.02.92 did not join the post of UDC at Ahmedabad.

4. Mr. Doctor, counsel for the respondents submitted that the applicant became eligible for consideration for promotion as UDC only w.e.f. 01.05.90 when Mr. Amin, UDC, was promoted to the post of Assistant. However, the Department of Industrial Development had imposed a ban on filling vacant posts and in the circumstances, the available vacant post of UDC cannot be filled up till June'92 when the said ban was lifted. He therefore, submitted that the applicant could not have been promoted after 01.05.90 on regular basis. So far as the promotion of Mr. Chachad is concerned, he submitted that within 8 days of his promotion order, the entire establishment was wound-up and in the circumstances, the question of promotion of the applicant in place of Mr. Chachad did not arise.

Dr

5. We have carefully considered the submissions of both counsel and examined the pleadings. In the reply to the O.A, the respondents have clearly stated that in view of the ban imposed in 1990, the applicant could not be promoted as UDC. They also stated that after the lifting of the ban, Mr.Chachad, who was senior to the applicant was promoted on 20.02.92 and immediately thereafter w.e.f. 01.03.92, the entire establishment was wound up. As the senior most LDC, Mr. Chachad has been rightly promoted and in the circumstances, we find no irregularity in granting promotion to Mr. Chachad. Immediately thereafter, the whole establishment was wound-up and the applicant was declared surplus. In the facts and circumstances, we hold that the applicant cannot be given the promotion as UDC. We hold that the O.A is devoid of any merit and accordingly dismissed. No costs.

  
(M. P. Singh)  
Member (A)

  
(P. C. Kannan)  
Member (J)

Mb