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CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. / 88/92
~~EX-A-N-O-X~~

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 Lerdships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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)

O R A L O R D E R
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 -

(A.S.Sanghavi)
Member (J)

(V.Radhakrishnan)
Member (A)

nkk



સર્વીખ
STATE

કાર્યાલય ટિપ્પણી
OFFICE REPORT

આદેશ
ORDER

24.11.99

Regular number is given

PG
151241

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 29.12.99, for filing reply.


(A.S.Sanghavi)
Member (J)

3.12.99

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)

.1.2000

Advocate Mr. K.K.Shah has made representation at 30.12.99 to withdraw MA 689/99, which place on file.
PG
1.2.2000

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

तारीख DATE	कार्यालय टिप्पणी OFFICE REPORT	आदेश ORDER
25.2.2000		<p>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.</p> <p style="text-align: right;"><i>A.S. Sanghavi</i> (A.S. Sanghavi) Member (J)</p>
10.3.2000		<p>nkk</p> <p>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 of further VP.</p> <p><u>M.A./112/2000</u></p> <p>Mr.Doctor fairly says that he has no objection for restoration of MA/689/99. Hence MA/112/2000 is allowed and MA/689 is restore to file. MA stands disposed of. No order as to cost.</p> <p><u>M.A./689/99</u></p> <p>Mr.Doctor prays for time to file rep to the MA/689/99. Hence adjourned to 13.4.2000.</p> <p style="text-align: right;"><i>A.S. Sanghavi</i> (A.S. Sanghavi) Member (J)</p> <p>nkk</p>

तारीख DATE	कार्यालय टिप्पणी OFFICE REPORT	आदेश ORDER
13.4.2000		<p>Mr. K.K. Shah has withdrawn from this case. His name may not be shown as the counsel for the applicant.</p> <p><u>MA/689/99 :-</u></p> <p>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>OA/88/92 may be placed for final hearing on 3.5.2000.</p> <p><i>P.C. Kannan</i> (P.C. Kannan) Member (J)</p> <p>Pkn</p>

DATE	कार्यालय टिप्पणी OFFICE REPORT	प्राप्ति प्राप्ति आदेश ORDER
3.5.2000		Adjournment is prayed for on behalf of the applicant. Adjournded to 12.6.00.
12.6.2000		MR.M.R.Anand and Mr.Doctor are present. At the r equest of Mr.Annd, adjourned to 14.6.2000. No furth adjournment will be given.
14.06.2000		Heard. Order dictated.

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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 ?
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4. Whether it needs to be circulated to other Benches of the Tribunal ?

Ph

PM

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,
6th floor, New Delhi 110 008.

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. Dinbai Tower, Mirzapur Road,
Ahmedabad - 380 001. = Respondents =

Advocate : Mr. B. N. Doctor

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

Date : 14.06.2000

BN

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 2nd May, 1990.

Dr

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 direct recruitment. 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 junior^{rs} 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.

DN

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