

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~NEW DELHI~~

NEW BOMBAY BENCH

AT PANAJIM GOA

O.A. No. 430) of 1987
T.A. No.DATE OF DECISION 13-12-1988Mangesh Narayan Waghwadekar PetitionerSmt. Shakuntala Joshi Advocate for the Petitioner(s)

Versus

Shri M.I. Sethna, Counsel for Respondent
Respondent Nos 1 & 2Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.B. MUJUMDAR, MEMBER (J)

The Hon'ble Mr. P.S. CHAUDHURI, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No

(12)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
CIRCUIT SITTING AT PANJIM
GOA

O.A.430/87

Mangesh Narayan Waghwadekar,
Junior Engineer,
Electricity Department,
Electrical Sub Division No.5 (O&M),
VALPOI, GOA.

.. Applicant

vs.

1. Development Commissioner,
Government of Goa, Daman & Diu,
Secretariat,
PANAJI.
2. The Chief Electrical Engineer,
Electricity Department,
Govt. of Goa, Daman & Diu,
Vidhyut Bhavan, Panaji,
Goa.
3. Shri P.L. Yoganand,
Asstt. Engineer,
Electricity Department,
Govt. of Goa, Daman & Diu,
DIU.
4. Shri V.H. Kadam,
Junior Engineer,
Electricity Dept.,
Govt. of Goa, Daman & Diu,
Div. I, Panaji,
Goa.
5. Shri Sivarao Chivukula,
Junior Engineer,
Electricity Dept.,
Govt. of Goa, Daman & Diu,
Div. VII,
Savordem, GOA.

.. Respondents.

Coram: Hon'ble Member (J) Shri M.B. Mujumdar
Hon'ble Member (A) Shri P.S. Chaudhuri

Appearances:

1. ~~Smt.~~ Shakuntala Joshi,
Advocate for the
Applicant.
2. ~~Sri~~ M.I. Sethna,
Counsel for
Respondent Nos 1 & 2.

ORAL JUDGMENT
(Per M.B. Mujumdar, Member (J))

Date: 13-12-1988

The applicant has filed this application
under Section 19 of the Administrative Tribunals Act,
1985 challenging his non-promotion to the post of
Asstt. Engineer (Electrical).

2 The relevant facts for the purpose of

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this judgment are these: In 1970 the applicant was appointed as Section Officer in the Office of the Chief Electrical Engineer, Panaji. In 1979 the post of Section Officer was designated as Junior Engineer. In 1980 the applicant was confirmed as Junior Engineer.

3. By an order dtd. 19.4.1983, 25 Junior Engineers (Electrical) in the Electricity Department were promoted to the post of Asstt. Engineer (Electrical) on ad-hoc basis with immediate effect. The applicant's grievance is that by that order many of his juniors were promoted.

4. By an order dtd. 29-6-1983 some adverse remarks for the year 1981 were communicated to the applicant. The applicant represented against these adverse remarks on 16-7-1983 but that representation was rejected on 2-8-1984. The applicant has not challenged that rejection or the adverse remarks for the year 1981 in this application.

5. The respondents have filed the affidavit of Shri Subhash V. Elekar, Under Secretary Power to the Govt. of Goa, Panaji explaining the factual position.

6. We have heard Smt. Shakuntala Joshi, the learned advocate for the applicant and Shri M.I. Sethna, for Respondents No. 1 and 2.

7. A meeting of the Departmental Promotion Committee (for short, DPC) was held on 10-11-1986 to consider the vacancies for the post of Asstt. Engineer yearwise and to prepare panels for 1975, 1978, 1979, 1980 and 1982. We have considered the proceedings of this meeting of the DPC, which consisted of Chief Secretary as Chairman and Development Commissioner and Chief Electrical Engineer as Members. As already pointed out the DPC had considered the cases yearwise whenever the vacancies had arisen, and prepared panels accordingly. It was not disputed that the applicant became eligible for ~~the~~ consideration for the post

of Asstt.Engineer in 1980. The proceedings for the meeting show that the name of the applicant was at Sr. No.18 in the list of candidates who were considered for the vacancies for the year 1980. The applicant was classified as 'Good'. The candidate at Sr. No.12 was classified as 'Very Good' and the candidates at Sr. Nos. 1 to 11 and 13 to 17 as classified as 'Good'. The vacancies available for that year were only 13 and hence the applicant could not be empanelled for the vacancies in that year. There was no vacancy in 1981. However, 25 vacancies arose in 1982. The case of the applicant was considered but he was found 'unfit' and naturally he was not empanelled.

8. We do not sit in appeal against the decision of the DPC. The only submission which was made by Smt.Joshi was that the adverse remarks for the year 1981 was communicated to the applicant by letter dtd. 29-6-1983. According to Smt. Joshi the adverse remarks for the year 1981 must have been taken into account while holding the applicant 'unfit' for promotion. The point would have assumed importance if the applicant's representation against that remark was allowed by the higher authorities to whom the representation was made. But the representation was rejected on 2-8-1984. The adverse remarks were not challenged before any higher authority or in the application made to us. Hence we are of the view that consideration of adverse remarks for the year 1981 by the DPC will not entitle us to set aside its decision so far as it relates to the applicant.

9. We may point out that by the order dtd.25th May, 1988 the applicant is promoted as Asstt.Engineer(Electrical) with immediate effect on adhoc basis.

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10. The applicant has challenged the promotion of Respondent No.3 Shri P.L.Yoganand, Respondent No.4 Shri V.H.Kadam and Respondent No.5 Shri Sivarao Chivukula on various grounds.

11. Accordingly to the Govt. of Goa, Daman and Diu, Office of the Chief Electrical Engineer, Group 'A' and 'B' posts Recruitment Rules, 1980 the qualification for promotion to the post of Asstt. Engineer (Electrical) - are - Junior Engineer (Electrical) and Foreman (Workshop) with 3/7 years regular service in the grade in the case of degree holders and diploma holders or equivalent respectively.

12. Respondent No. 3's promotion is challenged on the ground that he is not holding a Diploma in Electrical Engineering but is holding a Certificate in Electrical Engineering from City and Guilds of London Institute which, according to the applicant, is not equivalent to a Diploma in Electrical Engineering. Annexure 'C' to the reply of the respondents shows that pass in the final grade examination in Electrical Engineering practice Parts I & II of the City and Guilds of London Institute held after 3rd June, 1950 has been recognised by the Govt. of India for the purpose of recruitment to subordinate posts and service under the Central Government where a Diploma of a recognised Polytechnic is prescribed as a qualification. In view of this position we are of the view that promotion of Respondent No.3 was not improper.

13. As regards Respondent No.4 it is the case of the applicant that he is not holding either a degree or a diploma in Electrical Engineering but he is holding a Diploma in Mechanical Engineering. The qualifications prescribed

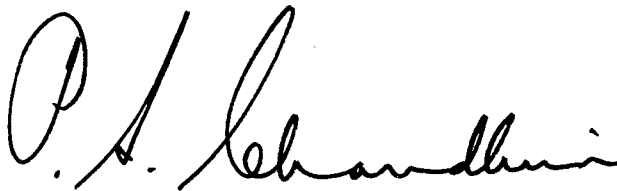
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are that a candidate should be a Diploma holder or equivalent. It has not been specified that the candidates should be a Diploma holder or equivalent in Electrical Engineering only. Thus a Diploma in any discipline is enough for promotion to the post of Asstt.Engineer.

14. It is not clear on what ground the selection of Respondent No.5 is challenged. In para 6(j) at page 7 of the application it is stated that names of Respondents No.4 and 5 were not included in the list of Asstt.Engineer (Electrical) adhoc at any time. We do not think that it is necessary that a person should be first appointed on adhoc basis for being eligible to be selected as Asstt.Engineer on regular basis.

15. We, therefore, find that the selection of Respondents No.3,4 & 5 cannot be assailed on any ground.

16. In result we find that this application is devoid of any merit. Hence we dismiss the same with no order as to costs. The interim order passed on 19-6-1987 is hereby vacated.



(P.S. CHAUDHURI)
MEMBER (A)



(M.B. MUJUMDAR)
MEMBER (J).