

(18)

CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR

~~O.A.~~ ~~No.~~

T. A. No. 223/87

198

DATE OF DECISION

8-10-90

Ramchandra Marotrao Wankhede Petitioner

Mr. Y. B. Phadnis Advocate for the Petitioner (s)

Versus

Union of India and another Respondent

Mr. Ramesh Darda Advocate for the Respondent (s)

CORAM


The Hon'ble Mr. P. S. Chaudhuri, Member (A)

The Hon'ble Mr. J. P. Sharma, Member (J)

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

Yes

No


(PS CHAUDHURI)
M(A)
8/10/90

(19)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR

Tr.223/87

Ramchandra Marotrao Wankhede,
1160, Shrikripa,
Gokulpeth,
Nagpur.

.. Applicant

vs.

1. Union of India
through
The Director General,
Posts & Telegraph,
Dak-Tar Bhavan,
New Delhi - 110 001.

2. Chairman,
Departmental Promotion Committee,
C/o. Director General,
Posts and Telegraphs,
Dak Tar Bhavan,
New Delhi - 110 001.

.. Respondents

Coram: Hon'ble Member(A) Shri P.S. Chaudhuri
Hon'ble Member(J) Shri J.P. Sharma

Appearances:

1. Mr. Y.B. Phadnis,
Advocate for the
applicant.
2. Mr. Ramesh Darda
Advocate for the
Respondents.

JUDGMENT:
(P.S. Chaudhuri, Member (A))

Date:

8-10-90

This application has come to the
Tribunal by way of transfer from the Nagpur
Bench of the Bombay High Court in terms of its
order dtd. 12-9-1986, under Section 29 of the
Administrative Tribunals Act, 1985, in Writ
Petition No. 1883/81 which was filed before it
on 29-7-1981.

2. When the Writ Petition was filed,
the applicant (Petitioner) was working as Chief

Accounts Officer in the Office of the District Manager Telephones, Nagpur. The applicant was initially appointed as Lower Division Clerk in the office of the Deputy Accountant General, Posts and Telegraphs, Nagpur on 21-8-1944. In 1969 he was promoted to the post of Class-II Accounts Officer. By order dated 28-5-1977 he was further promoted to the post of Assistant Chief Accounts Officer in Group A. He was directed to take over the charge of Chief Accounts Officer in the senior time scale on 14-6-1977. By an order dtd. 12-6-1981, another official viz. Shri A.K.Majumdar was transferred to the post held by the applicant. By another dated 12-6-1981 it was directed that consequent on the posting of of Mr.A.K.Majumdar, the applicant, who was working on ad-hoc basis as C.A.O. be reverted to the grade of Accounts Officer. Being aggrieved the applicant filed the Writ Petition praying, inter-alia, that the order of reversion dtd. 12-6-1981 be quashed. He also prayed for an ad-interim stay of the effect and operation of this order. When the matter was pending in the High Court, by order dated 30-7-1981 the interim stay as prayed for was ordered. By order dated 27-8-1981 the stay was continued till further orders.



3. The respondents have opposed the application by filing their written reply. It is their case that when the applicant was promoted to class-II post in March, 1969 the rules governing that cadre were known as "The Indian Posts and Telegraphs Accounts and Finance Services, Class II (Recruitment) Rules, 1968," Class II officers were eligible for being considered for promotion to Class-I on recommendations of a duly constituted Departmental Promotion Committee (for short, DPC) in consultation with the Union Public Service Commission. In 1976 it was decided by the Government of India to take over accounting functions of the postal side from the Accountant General, P&T who was working under the control of the Comptroller and Auditor General of India. Accordingly, an ordinance was issued which was later on replaced by 'Departmentalisation of Union Accounts' (Transfer of Personnel) Act, 1976'. This Act came into force with effect from 1-4-1976. The Director General P&T at the time of departmentalisation of postal accounts with effect from 1-4-76 decided to form the following two separate services:

(1) Junior Accounts Officers' Service (Group-C); and

(2) P & T Accounts & Finance Service (Group-B).

These two separate services were constituted each

for Postal Wing and Telecommunication Wing in consultation with the Accountant General P&T and Ministry of Finance. In view of the formation of these services, it was necessary to frame four sets of rules, two for the Postal Wing and two for the Telecommunication Wing. It was also necessary to amend the rules for recruitment to the Class-I, i.e. P&T Accounts and Finance Service (Group-A). Unless these rules were framed, it was not possible for the administration to hold a regular meeting of the DPC to draw a Select List for promotion of Accounts Officers to the P&T Accounts and Finance Service(Group-A). The framing of new set of recruitment rules and amending the existing rules takes some time. Anticipating the delay that may occur in this respect, it was decided by the Government of India that the Accounts Officers shall be appointed to the Group A Service from 1977 onwards on purely ad hoc and temporary basis. Accordingly, appointment orders were issued purely on the basis of all India seniority of Accounts Officers. These appointments were not at all made on the merits of the officers based on selection method as reflected in the official records of the officers. In every appointment order it was clearly stated that the appointment was purely on ad hoc basis and would not bestow any claim for regular appointment to the Junior Time Scale or Senior Time Scale and that the services

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so rendered by the concerned officer in these grades shall not count for the purposes of seniority in the grade or for promotion to the next higher grade. The applicant was promoted in this fashion by an order dated 28-5-1977 on purely temporary and ad hoc basis until further orders to the Junior Time Scale. The applicant took charge as Assistant Chief Accounts Officer on 8-6-77 and as Chief Accounts Officer on 14-6-1977. Thereafter Class-I Recruitment Rules were amended by the 'Indian Posts & Telegraphs Accounts & Finance Service Class-I(Recruitment) Amendment Rules 1980'. The amended rules were notified in the official gazette on 13-9-1980 and came into force from the date of publication. Since these Rules were notified, action was immediately taken to hold the meeting of the DPC for drawing up of the Select List for promotion of Accounts Officers in the Postal and Telecommunication Accounts Wing of the Department to the Group-A Service. The DPC met on 21-4-1981 and 4-5-81 to draw a Select List. The case of the petitioner was considered by the DPC. The DPC did not find the petitioner as meritorious as others whose names were included in the Select List. The result was that the petitioner was not selected for being promoted to the Group-A Service. Because of non-selection of the petitioner it was necessary to revert him from the officiating post to his substantive post.

4. We have heard Mr.Y.B.Phadnis, learned advocate for the applicant and Mr.Ramesh Darda, learned advocate for the respondents.

5. Mr.Phadnis submitted that the applicant had **retired** on superannuation with effect from 30-10-1981 and because of the stay which was in force had continued in the post of Chief Accounts Officer till the date of his retirement. In view of this position we are of the opinion that the application no longer survives.

6. The applicant had by way of an amendment attempted to challenge the results of the DPC. But there is no prayer for setting aside the results of the DPC and so this amendment does not help the applicant.

7. In this view of the matter, we are of the opinion that the application merits dismissal as no longer surviving.

8. We accordingly dismiss the transferred application as no longer surviving. In the circumstances of the case there will be no order as to costs.

(J.P.SHARMA)
Member(J)

(P.S.CHAUDHURI)
Member(A)

8/10/80