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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

Original Application No.556/87.

Shri Narayan Hariba Bhosale.

... Applicant.

V/s.

The Under Secretary to Govt. of
India & Another.

... Respondents.

Coram: Hon'ble Member(A), Shri M.Y.Priolkar,
Hon'ble Member(J), Shri T.C.Reddy.

Appearances:-

Applicant by Shri D.V.Gangal.
Respondents by Shri A.I.Bhatkar
for Mr.M.I.Sethna.

JUDGMENT:-

ORAL JUDGMENT:-

Per Shri M.Y.Priolkar, Member(A) Dated: 15.3.1991.

The applicant in this case was working as a Heavy Vehicle Driver in the Arvi Satellite Communications (ASCOM) Project of the Department of Atomic Energy. The appointment order dt. 24.7.1969 clearly stated that this post was purely temporary and not likely to continue beyond one year. Thereafter, the applicant was asked to report for duty in (P.P.E.D.) the Power Projects Engineering Division/1 in Bombay which is another unit of the Department of Atomic Energy, where he joined on 19.9.1970 as Light Vehicle Driver. According to the applicant, he represented against his appointment to a lower post and on that basis he was posted on 14.1.1971 as a Heavy Vehicle Driver (HVD) in the same unit. The grievance of the applicant is that one Mr. V.N. Gaikwad who was junior to him as Heavy Vehicle Driver in ASCOM was appointed as Heavy Vehicle Driver in the PPED on 24.12.1970 i.e. before the applicant's appointment as HVD in that unit, although

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Mr.Gaikwad was junior to him in the earlier temporary project. His further grievance is that on the basis of this seniority list Mr.Gaikwad has now been promoted as Selection Grade HVD from 2.1.1983 in preference to the applicant.

2. The learned counsel for the applicant argued that even in case the applicant is held to have been rendered surplus in the Temporary ASCOM Project, Mr.Gaikwad who was junior to him, should have been the first to be sent out of the project, on the basis of the principle of last come first out. Secondly, there was no formal order of terminating the applicant's services in the ASCOM Project. According to him, the applicant had accepted the lower post of LVD in PPED only for the reason that the PPED at that time did not have any heavy vehicle where his services could be utilised and to that extent he had agreed to work for some time, temporarily, on a lower salary. Lastly, his contention is that he has been discriminated against in that a junior (Mr.Gaikwad) was straight away provided with the post of HVD in PPED even earlier than him, and also given seniority from that date resulting in his promotion to the next higher grade of Selection grade HVD in preference to the applicant.

3. The learned counsel for the respondents contends that the ASCOM Project being a purely temporary project, the employees concerned were considered for appointment to regular posts in PPED, which is another unit of the Department of Atomic Energy with separate cadres for various categories of staff and separate appointing authorities. He also produced before us at our instance

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the minutes of the selection committees in PPED held on 1.9.1970 for recruitment to the post of LVD and on 2.11.1970 for recruitment to the post of HVD. According to the minutes of these Selection Committees which consisted of four Officers of P.P.E.D., the applicant was one of the candidates who was trade tested and interviewed on 1.9.1970 along with others and was assessed suitable for the post of LVD, and the committee had recommended him for that post. Mr. Gaikwad was not ~~one of~~ ^{among} the candidates who applied for or appeared in this selection. The minutes of the meeting on 2.11.1970 indicate that both the applicant as well as Mr. Gaikwad were among the candidates who were trade tested and also interviewed, after which the selection committee recommended Mr. Gaikwad as No.1 in the list of persons selected in which Mr. N. H. Bhosale is placed as No.5. The learned counsel for the applicant was given inspection at his request of these documents and he contended that this is not a list in order of merit. Considering the order in which selected candidates have been placed, although the selection committee has not specifically indicated that it is in order of merit, we do not find any reason to hold that this list is not in the order of ranking of the candidates. All the candidates who were considered for this selection have been shown earlier in an entirely different order in these minutes and the applicant was listed above Mr. Gaikwad. But in the subsequent paragraph of the minutes where the Selected Candidates have been listed, Mr. Gaikwad is shown as No.1 and the applicant as No.5. We have also seen the minutes of the meeting of the DPC for appointment to the post of Selection Grade HVD. Here

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again, on the basis of C.Rs, the DPC recommended Mr.Gaikwad as No.1 and the applicant as No.4 and Mr.Gaikwad's appointment to the higher promotion post is on the basis of this recommendation. We have no reason to hold that the candidates selected by these Committees have been listed in the minutes of the meetings of these Committees in any order other than that of merit. Since regular appointment to the post of HVD in PPED was based on selection by merit by a different appointing authority, the earlier seniority in a purely temporary post in a different unit would be of no relevance.

4. In the circumstances, we do not find any merit in any of the contentions raised on behalf of the applicant. The application is, accordingly, dismissed with no order as to costs.

T. C. Reddy

(T.C.REDDY)
MEMBER(J)

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(M.Y.PRIOLKAR)
MEMBER(A).