

(11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 685/87.

198

T.A. No.

DATE OF DECISION 29.8.90.

Laxman Maruti Jadhav

Petitioner

Mr E.K.Thomas,

Advocate for the Petitioner(s)

Versus

General Manager,

Respondent

Mahanagar Telephone Nigam Ltd.

Mr. Motiankar,

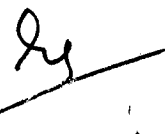
Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. G.Sreedharan Nair, Vice Chairman.

The Hon'ble Mr. M.Y.Priodkar, Member(Admn)

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 ? ☒


 (G.Sreedharan Nair)
 Vice Chairman.

(12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : NEW BOMBAY BENCH
NEW BOMBAY.

O.A.685/87.

Laxman Maruti Jadhav Applicant.
versus
General Manager,
Mahanagar Telephone Nigam Ltd.
Telephone Bhavan, Colaba,
Bombay-5, and another ... Respondents.

P R E S E N T :

The Hon'ble Shri G.Sreedharan Nair, Vice Chairman.

The Hon'ble M.Y.Priolkar, Member(Admn).

For the applicant- Mr E.K.Thomas, Advocate

For the respondents- Mr Kotiankar, Advocate.

Date of hearing - 27.8.90

Date of Judgment and Order - 29.8.90.

JUDGMENT & ORDER :

G.Sreedharan Nair, Vice Chairman :-

The applicant, a Telephone Operator, has filed this application assailing the promotion of the 2nd respondent to the post of Welfare Inspector.

2. On 10.10.1985, the Assistant General Manager, Bombay Telephones, issued a Notification for recruitment to the 4-Year Tenure post of Welfare Inspector. Among others, the applicant and the 2nd respondent submitted applications. A selection was conducted by a Departmental Promotion Committee (D.P.C.), which recommended the 2nd respondent, and, accordingly, the 2nd respondent was appointed to the post.

3. It is alleged by the applicant that while he has the requisite qualification of Diploma in Social Work, the 2nd respondent did not have the same and that the selection of the 2nd respondent was done clandestinely deviating from the standard practice of interviewing the candidates. It is stated that when the 2nd respondent was promoted, the applicant submitted a representation against the same to the

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General Manager on 2.6.1986, but it was simply rejected by the order dated 2.7.1986.

4. Since the application has been filed only on 15.10.1987, the applicant has filed a petition for condoning the delay where it is stated that the delay happened on account of wrong advice given by the Advocate that a notice under section 80 of the Code of Civil Procedure ~~is~~ is required and that the application can be filed only after expiry of 60 days from the date of issue of the notice.

5. In the reply filed by the ^{first} respondents, it is contended that the application is barred by limitation and that there is no sufficient reason for condoning the delay. On the merits, it is stated that the 2nd respondent was eligible for promotion and it was acting on the recommendation of the DPC that the promotion was made. It is stated that no interview is prescribed as per the Recruitment Rules and the proceedings of the DPC cannot be assailed.

6. From the proceedings, it is seen that on 13.11.1987 the original application was admitted "subject to the question of condonation of delay". In view of the ^{in respect of the wrong advice given by counsel,} averment in the petition seeking condonation of delay, and having regard to the fact that the delay is only of less than three months, we allow the petition.

7. However, on merits, the applicant has no case. The plea of the applicant that the 2nd respondent did not have the essential qualification since he did not possess diploma in Social Work is unsustainable

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as the Notification dated 10.10.1985 requires only a Degree in Arts, Science or Commerce. A Diploma in Social Work is only an additional qualification as per the terms of the Notification. Hence, the absence of the Diploma does not make the 2nd respondent ineligible for the post.

8. The ^{first} respondents have ^{filed} an extract of ^{the} biodata of both the applicant and the 2nd respondent. It is Exhibit-
I. It is asserted ^{in the reply} that it was on a comparative assessment that the DPC recommended the case of the 2nd respondent. The contention of the applicant that the proceedings of the DPC were clandestinely done is based on the fact that no interview was conducted. The respondents have pointed out that the Recruitment Rules do not contemplate holding of an interview.


9. It is settled that when a duly constituted DPC considers the suitability of the rival candidates and makes a recommendation, in the absence of anything to show that the proceedings of the DPC are not in conformity with the Rules, or are vitiated by mala fides, the Tribunal cannot interfere as though it is the appellate authority vested with the power of making a re-assessment of the merits of the candidates.


10. It has also to be pointed out that the appointment of the 2nd respondent was against a 4-year tenure post, and by now the period has expired, and it was stated by the counsel of the respondent that somebody else has been appointed against the post.

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8. The application is dismissed.


(M.Y. Priolkar)
Member (Admn)


(G. Sreedharan Nair)
Vice Chairman.

S.P. Singh/
28.8.90.