

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
-----

Original Application No: 730/87

Transfer Application No: ---

DATE OF DECISION: 21-3-94

Chandrakant Udeshi \_\_\_\_\_Petitioner

Mr.D.V.Gangal \_\_\_\_\_Advocate for the Petitioners

Versus  
-----

Union of India & Ors.  
-----Respondent

Mr.S.S.Karkera \_\_\_\_\_Advocate for the Respondent(s)

CORAM :  
-----

The Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman

The Hon'ble Shri R.Rangarajan, Member(A)

1. To be referred to the Reporter or not ? *no*
2. Whether it needs to be circulated to other Benches of the Tribunal ? *no*

*[Signature]*  
(M.S.Deshpande)  
VC

(26)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A.730/87

Chandrakant Udeshi

.. Applicant

-versus-

1. Union of India  
through  
Secretary,  
Ministry of Tourism &  
Civil Aviation,  
New Delhi.
2. The Director General  
of Civil Aviation,  
New Delhi.
3. The Chairman,  
National Airports  
Authority,  
New Delhi.
4. The Director of  
Communication,  
A.C.S. National Airports  
Authority,  
Bombay Airport,  
Bombay - 400 099.

.. Respondents

Coram: Hon'ble Shri Justice M.S.Deshpande  
Vice-Chairman

Hon'ble Shri R.Rangarajan, Member(A)

Appearances:

1. Mr.D.V.Gangal  
Advocate for the  
Applicant.
2. Mr.S.S.Karkera  
Advocate for the  
Respondents.

ORAL JUDGMENT:  
(Per M.S.Deshpande, V.C.)

Date: 21-3-94

The applicant prays for a declaration that he is eligible to be confirmed as Assistant Technical Officer and further get promotion as Technical Officer in accordance with his seniority and Rules and further to hold and declare that he cannot be reverted from the post of Asstt. Technical Officer and should be considered for promotion to the post of Technical Officer.

2. The applicant was appointed as Radio Technician on 25-5-1960 and came to be promoted in the year 1970 as Radio Technician (Selection Grade). He held the post of regular Technical Assistant from 1976 to 1982 and came to be appointed on ad-hoc basis as Assistant Technical Officer from 17-7-82 and <sup>that</sup> that post he continued to hold upto 2-8-89 and in view of this position he is entitled to the reliefs which are being claimed here.

3. The prayer was opposed on behalf of respondents and it was urged <sup>that</sup> on the basis of the relevant rules the applicant was not entitled to get the reliefs sought. We do not think that the matter is res-integra any longer in view of the decision of the Principal Bench of this Tribunal in Chaman Singh vs. Union of India dt. 2.8.1989 where after extracting ~~xxx~~ the relevant portion of the recruitment rules 1977 it was pointed out that the only question which arose was whether the applicant fulfils the qualification mentioned in clause (iv) of Recruitment Rule. There the post was Communication Assistant which the applicant therein held was is equivalent to the post of Technical Assistant as mentioned in clause (iv) which reads as follows:

"(iv) Persons holding the post of Technical Assistant or Communication Assistant on the date of promulgation of these rules and fulfilling the following conditions shall be eligible for consideration for promotion, without having to pass any qualifying examination.

(a) should be either permanent or quasi permanent in the grade.

(b) should be atleast  
matriculate or should possess  
equivalent qualifications;

(c) should have at least five  
years service as Technical  
Assistant or Communication  
Assistant."

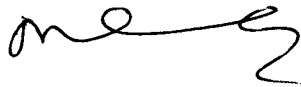
4. It is apparent that the applicant  
condition  
fulfills the eligibility/as stated in clause (a)  
to (c). The emphasise on behalf of the respondents  
was that the examination has necessarily to be  
passed as prescribed in clause (iii). What is  
being overlooked is clause (iv) is separate and  
independent and clause (iii) <sup>and</sup>prescribes different  
considerations in the case of Technical Assistants  
and Communication Assistants who answer to the  
eligibility as in clause (a) to (c) of clause (iv).  
It is not necessary therefore for a person  
placed in the position of the applicant to answer  
this eligibility to pass the qualifying examination.

5. At one stage it was urged that the  
rule had not been correctly pointed out to the  
Principal Bench at Delhi. We have gone through  
the relevant rules and we find that the rules  
have been correctly quoted in the Delhi Bench  
judgment. The division bench decision is binding  
on us and the applicant fulfills the necessary  
eligibility as prescribed and he is entitled  
to the reliefs claimed in this application.

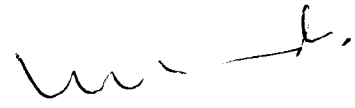
6. In result we declare that the  
applicant is eligible to be considered as  
Asstt. Technical Officer and further get promotion  
as Technical Officer in accordance with his  
seniority and suitability as per rules and that

99

he cannot be reverted from the post of Asstt. Technical Officer and direct that he be considered for the post of Technical officer as per rules. We direct the respondents No.1 and 2 to implement the directions within three months from the date of communication of this order. There ~~will be~~ no direction to respondents No.3 and 4 as they are not amenable to our jurisdiction w.e.f. 2nd October, 1989. No order as to costs.



(R. Rangarajan)  
Member(A)



(M. S. Deshpande)  
Vice-Chairman

M