

(19)

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 ? ~

2. Whether it needs to be circulated to other Benches of
the Tribunal ? ~

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Line
(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 ~~that~~ 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 ~~that~~ respondents and it was urged ~~on~~ 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 fulfills 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) 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

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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~~ 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


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