

(2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 257/87

199

~~TX. Axx NOx~~

DATE OF DECISION 4.11.92

Shri V.P. Abraham

Petitioner

Shri V.P. Pandharpurkar

Applicant in person

Advocate for the Petitioners

Versus

Director General of Inspn. Respondent
New Delhi and others.

Shri R.K. Shetty

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice S.K. Dhaon, Vice Chairman

The Hon'ble ~~Mr.~~ Ms. Usha Savara, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *No*

S.K. Dhaon
(S.K. DHAON)
VICE CHAIRMAN

mbm*

(C)
CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 257/87

Shri V.P. Abraham

Shri V.P. Pandharpurkar

... Applicants.

V/s.

Director General of Inspection
Department of Defence Production (DGI)
Ministry of Defence, Govt. of India
DHQ PO New Delhi

Controller,
Controllorate of Inspection
(Ammunition)
Kirkee, Pune

Inspector,
Inspectorate of Armaments
Varangaon.

... Respondents.

CORAM: Hon'ble Shri Justice S.K. Dhaon, Vice Chairman
Hon'ble Ms. Usha Savara, Member (A)

Appearance:

Applicant in person.

Shri R.K. Shetty, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 4.11.92

{ Shri S.K. Dhaon, Vice Chairman }

The controversy relates to the promotion to the post of Foreman.

The two applicants before this Tribunal were admittedly working as Assistant Foreman in the Inspectorate of Armaments. The post of a Foreman is a selection post. A Departmental Promotion Committee had, therefore, to be convened for making a selection in the said post. As Junior Foreman, the applicant No.1 Shri V.P. Abraham had a placement at No. 10, whereas the applicant No.2, Shri V.P. Pandharpurkar, was placed at serial No.9.

It appears to be an admitted position that there were 17 vacancies in all to be filled in to the post of Foremen. Out of the 17 vacancies 5 were

earmarked either for scheduled caste/scheduled tribes and 12 were earmarked for the general candidates. It is also not in dispute that 51 candidates in all were placed in the zone of consideration. The Departmental Promotion Committee considered the cases of the 51 candidates. It found that S/Shri Bhagawant Kumar and P.S. Joseph were "outstanding". It placed the applicant No.1 at serial No.11 and the applicant No.2 at serial No.10 respectively in the select list. We may at this stage note that in the seniority list of Assistant Foreman, Bhagawant Kumar found his place at serial No.41 whereas P.S. Joseph was at serial No. 42.

The limited question which is being urged by Mr. Abraham, who appears in person, is that S/Shri Bhagawant Kumar and P.S. Joseph were not entitled to be considered at all. According to him, since there were only 12 vacancies available for appointment of general candidate to the post of Foreman the, zone of eligibility in the general seats was confined to 36 candidates and, therefore, Bhagawant Kumar and Joseph clearly fell outside the zone. On the other hand, the case set up by the respondents is that, since there were 17 vacancies, they were entitled to consider 3 times the number of vacancies and, therefore, candidate upto the serial No.51 fell in the zone of consideration.

The respondents place reliance upon the O.M dated 2.5.83 which deals with: "Principles for promotion to 'selection' posts."

Paragraph 3 (a), as material, provides inter-alia that the Departmental Promotion Committee shall for the purpose of determining the number of officers who should be considered from out of those eligible officer in the feeder grades restrict the field of choice with reference to the number of clear regular vacancies proposed to be filled in the year. If the number of vacancies are four or more then the number of officers to be considered should be three times the number of vacancies.

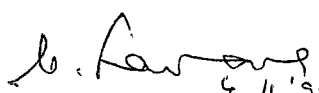
On the contrary, Shri Abraham has placed before us paragraph 12.2(c) as contained in the Brochure on Reservation of Scheduled caste and Scheduled tribes in Service. He relies upon sub-para (2). Before we read the aforesaid sub-para, we may indicate that paragraph 12.2(c) contains instructions regarding the manner in which the select list of Scheduled caste/Scheduled Tribes officers should be drawn up. The substance of sub-para 1 of the instructions is that a separate list of eligible Scheduled caste /Scheduled Tribe candidates should be drawn up by the Departmental Promotion Committee. In this back drop we may now consider sub-para 2. It provides inter-alia that in the separate select list drawn up, for Scheduled caste/Scheduled tribe officers, the Scheduled caste and Scheduled tribe officers will be adjudged separately amongst themselves and not among with the other officers, and, if selected, they should be included in the concerned separate select list irrespective of their merits as compared to the other officers. The officers not belonging to the Scheduled caste and Scheduled tribe will not be considered while drawing up separate select list for Scheduled caste/Scheduled tribe for consideration in the inclusion in the separate select list. The zone of consideration for Scheduled caste/Scheduled tribe, as the case may be, should be of the same size as that for general select list i.e. if for the general select list the zone of consideration is five times the number of vacancies likely to be filled the separate list for Scheduled caste also should be 5 times the number of reserved vacancies for them, and like wise for Scheduled tribe subject to the condition that officers coming within such zone are eligible for being considered for promotion.


Having considered the matter, we are, of the opinion, that the instructions as contained in para 3 of the O.M. dated 2.5.83 are not modified by the instructions contained in sub-para 2 of 12.2(c) of the aforementioned instructions. The two instructions are operating in two different fields. The instructions contained in the O.M. dated 2.5.83 deal with the situation where the number of candidates have to be considered for promotion by the Departmental Promotion Committee, the yard-stick being the number of existing vacancies to be filled in by selection. The instructions in sub-para 2 merely emphasise that the Departmental Promotion Committee while considering the general and Scheduled caste / Scheduled tribe candidates shall separate the Scheduled caste / Scheduled tribe candidates from the general candidates and they shall draw up a separate list not only as between general candidates and Scheduled caste / Scheduled tribe candidates but also between Scheduled caste / Scheduled tribe inter se. The sub-rule also emphasises that while considering the Scheduled caste / Scheduled tribe candidates the zone of eligibility should be the same as fixed earlier for considering the number of candidates as a whole for the purpose of making selection to be filled up for existing vacancies. To put it differently, the emphasis appears to be that if, the vacancies are more than four, then the number of candidates in all to be considered for selection should be three times the number of vacancies provided the required number of Scheduled caste / Scheduled tribe candidates are available for being considered for selection. It is emphasised that the same criteria should be adopted by the Departmental Promotion Committee for fixing the zone of eligibility for considering the candidate for whom the seats are reserved i.e. Scheduled caste / Scheduled tribe.

We have seen the reply filed by the respondents. The Departmental Promotion Committee has acted precisely in the manner which is required by the instructions. We, therefore, do not find any infirmity in the procedure adopted by the Departmental Promotion Committee in considering 51 candidates for filling in the 17 vacancies to the post of Foreman. It, therefore, follows that no exception can be taken to the consideration of S/Shri Bhagawant Kumar and P.S. Joseph.

The other submission advanced by Shri Abraham is that the Departmental Promotion Committee did not make a proper assessment. It is averred in the application that the applicants have reasons to believe that their ACRs contained outstanding entries and the same had been ignored by the Departmental Promotion Committee while making recommendation. Shri R.K. Shetty, who appears on behalf of respondents, has produced before us the original ACRs and also the proceedings of the Departmental Promotion Committee. At our instance, the record has been shown to Shri Abraham. On perusal of the proceeding of the Departmental Promotion Committee, we find that it felt that S/Shri Bhagawant Kumar and P.S. Joseph deserved the entry of 'outstanding' officers and, therefore, they were placed at serial No. 1 and 2 respectively in the list prepared by them. We find no infirmity in the proceedings of the Departmental Promotion Committee.

The applicants are not entitled to any relief. This application is dismissed but without any order as to costs.


(USHA SAVARA)
MEMBER (A)


(S.K. DHAON)
VICE CHAIRMAN