

(20)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A. NO: 396/88

199

T.A. NO:

DATE OF DECISION 21.8.1991

Shri L.J.Giriyan

Petitioner

Shri C.Nathan

Advocate for the Petitioners

Versus

Director of Fisheries Govt. of Goa & Anr.

~~Union of India~~

Respondent

Respondents 1 and 2 by Shri H.R.Bharne.

Respondent No.3 by Shri R.K.Shetty.

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice U.C.Srivastava, Vice-Chairman,

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

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 ? ✓

mbm\*

  
(U.C.SRIVASTAVA)  
VICE-CHAIRMAN.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY.

Original Application No.396/88.

Shri L.J.Giriyan.

... Applicant.

V/s.

Director of Fisheries Govt. of  
Goa & Anr.

... Respondents.

Coram: Hon'ble Shri Justice U.C.Srivastava, Vice-Chairman,  
Hon'ble Shri M.Y.Priolkar, Member(A).

Appearances:-

Applicant by Mr.C.Nathan.

Respondents by Mr.H.R.Bharne(1 & 2).

Respondent No.3 by Mr.R.K.Shetty.

Oral Judgement:-

Per Shri Justice U.C.Srivastava, Vice-Chairman Dt.21.8.91.


The applicant who was appointed as Skipper in the Directorate of Fisheries, Government of Goa, Daman and Diu in the year 1972 was confirmed on the post w.e.f. 28.4.1987 viz. prior to the date when Goa became a state on 30.5.1987. After the attainment of Statehood the employees were asked to exercise their options and the applicant opted for Daman and Diu but no reply to his option was given. An order was issued by the Director of Fisheries, Government of Goa on 11.5.1988 declaring the services of the applicant as surplus but an option was given to him as to whether he would like to have additional benefit of 5 years of qualifying service for the purposes of Pensionary benefits, after which he can seek voluntary retirement. The applicant was required to give his option before 10th June, 1988. The applicant instead of giving his option has approached this Tribunal stating that three posts are available and the applicant is willing to be appointed to one of these if the applicant's services have truly become surplus, i.e. the post of Bosun, Senior Store Keeper and Fisherman Expert. The applicant has prayed that the memorandum which was

...2.


issued to him declaring him surplus and asking him to seek voluntary retirement be quashed and that he may not be deprived by terminating him from the post held by him which according to him has not been abolished, the applicant has averred that ~~as~~ no offer of compensation pension as provided under Rule 39(2) has been given to him nor has he been appointed to another post as such the requisite condition in this behalf has not been fulfilled by the respondents. The application has been opposed by the respondents and in the written statement the respondents have stated that in the year 1984 the Trawlers in which the applicant was appointed had become unseaworthy and as a consequence of the same could not be put to use and as such the applicant's services could not be utilised but the Government continued him in service and tried the possibility of accommodating him in another department and all the efforts made including with the Central Departments and various levels failed and it is not possible to provide any alternative post to the applicant. There was now no vacancy for want of adequate qualifications or that the post desired by the applicant is a promotional post. An interim order was granted to the applicant by this Tribunal with the result he was allowed to continue in the post of Bosun but the said order was vacated in the year 1990.

2. Under Section 60 of the Goa, Daman & Diu Re-organisation Act which came into force on 23.5.1987, all the erstwhile employees became employees of the State of Goa but there was no trawler for the deployment of the applicant and that is why the O.M. was later on issued and in view of that fact the applicant has become surplus. So far as the applicant's option for Daman and Diu is concerned it was for that administration to consider and the Goa administration cannot consider his option. Another option was given to him for accepting another appointment as provided under Rule 39)

and according to the applicant such an option could not have been given in view of the circumstances stated above. In view of the Government decision not to replace the unseaworthy trawlers, the post became surplus and an offer was given to the applicant to seek voluntary retirement should come from the employee and it should not be thrust upon him. It is only by way of concession that this option was given to the applicant that in case he seeks voluntary retirement he will be entitled to various pensionary benefits. It was for the applicant to accept or not to accept the same. It is true that the applicant was a permanent employee but the trawlers became unseaworthy and he has become surplus and in case he gets the pension he will not be getting the said amount which even now he is getting. But there is no way out except that he may get an alternate employment for which earnest efforts were made by the respondents. The learned counsel addressed us on the facts, but he was not able to point out any invalidity in the order except that his voluntary retirement was being imposed which was for him to accept or not to accept. We do not find any merit in the application and application is bound to be dismissed but the option for the applicant whether he would like to seek voluntary retirement is still open. In case he seeks the voluntary retirement, the benefit of the same may be given to him. However, before concluding we would like to observe that in view of the facts and circumstances of the case, Goa Administration may try to find an alternate job for him for which the applicant is suitable and which does not affect any other promotional post so that the applicant may also be accommodated. Let an earnest effort be made as early as possible. The application is disposed of finally with the above observation but there will be no order as to costs.

  
(M.Y. PRIOLKAR)  
MEMBER(A)

B.S.M.

  
(U.C. SRIVASTAVA)  
VICE-CHAIRMAN.