

18

BOMBAY . BENCH

T.A. NO:

27.8.1991

Petitioner

Versus

Labour & Respondent

Advocate for the Respondent(s)

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<sup>+</sup>

(16)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY.  
CAMP AT PANAJI.

Original Application No.184/88.

Shri S.N.Prabhoo.

... Applicant.

V/s.

The Secretary,  
Industries and Labour Department,  
Government of Goa, & Anr.

... Respondents.

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

Appearances:-

Applicant in person.

Respondents by Mr.H.R.Bharne.

Oral Judgment:-

(Per Shri Justice U.C.Srivastava, Vice-Chairman) Dt.27.8.1991.

The applicant said to be an experienced designer who was formerly working in the Design Development Centre of the Directorate of Industries and Mines, Government of Goa, Daman and Diu and holder of certain diploma in fine arts awarded by the Government was appointed on 3.10.1967 as a Drawing and Handicraft teacher in a Government School. In response to an advertisement by the Director of Industries and Mines for the post of Designer in a higher pay scale the applicant also applied for the same and was selected by the Selection Committee and thereafter was appointed to the said post on ad hoc basis. It appears that the applicant worked in that department for about 8½ years. Respondents state that the matter was referred to the UPSC and UPSC did not approve his case. In the mean time the statutory rules had come into effect in the year 1978 and in pursuance of the rules it appears some selection process started. As the applicant's claim was not approved by the UPSC the applicant was repatriated back to his department. Instead of repatriation, in the order it has been stated that the applicant has been reverted, as three or four options were actually given


...2.

(17)

for reversion of the applicant and that is why he has approached the Tribunal praying that he could not have been reverted and by reversion of course, his pay scale has been reduced.

2. From the facts as emerging out of the pleadings it is apparent that the applicant was on deputation and after repatriation he has gone back to his own department according to him ~~is~~ on a lower pay scale. The learned counsel for the applicant vehemently contended that the applicant was holding this post for 8½ years as such he was entitled for regularisation and that there was no occasion for making any appointment on the said post and as a matter of fact one who was junior to him i.e. Respondent No.3 has been promoted to the said higher post. The record indicates such an appointment in fact was made. The applicant was entitled to be considered for regularisation and for this reason his case was referred to the UPSC. For some reasons the UPSC did not recommend his case. There was no option before the department but to send him back to his own department. It is not that the department itself has reverted back the applicant, but because of the non-acceptance of his candidature for regularisation by the UPSC he had to go back to his department. It is true that injustice has resulted to the applicant in his department as well as parent department. In the parent department the applicant would have been entitled to the higher promotional post and he would have earned this by this time had he not joined this particular department, but instead of being repatriated on a promotional post he has been posted on a post carrying lower pay scale. Although the legal position is that a deputationist is to be posted against a post which in normal course he would have earned in the Department if he would have not been sent on deputation. For that the applicant

even can approach his parent department and there appears to be no reason why he will not be given his due. But such a relief can not be granted to him in this application. The learned counsel for the applicant made a reference to certain cases in which temporary employees working continuously for 2 years on ad hoc appointment, <sup>were regularised.</sup> That benefit is not available to the applicant in the loanee department in view of the fact that in the mean time statutory rules have come into force and the applicant was holding this post on ad hoc basis and on the basis of the said rules appointment can be made when the applicant was not considered fit for regularisation. In this view of the application is dismissed with the observation regarding his proper posting in his parent department. There will be no order as to costs.

  
(M.Y. PRIOLKAR)  
MEMBER (A)

  
(U.C. SRIVASTAVA)  
VICE-CHAIRMAN.

B.S.M.