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CAT/J/12

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

~~Q.A.X.X.Nox~~

T.A. No.

, 61/86

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DATE OF DECISION 26.10.1989

Shri H.B.Pawar

Petitioner

Shri M.V.Holamgi

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Shri R.C.Kotiankar

Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. M.B.Mujumdar, Member(J),

The Hon'ble Mr. P.S.Chaudhuri, 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 ? *No*
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*

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY.

Tr. Application No.61/86.

Shri H.B.Pawar.

... Applicant

V/s.

Union of India, & ors.

... Respondents

Coram: Hon'ble Member(J), Shri M.B.Mujumdar,  
Hon'ble Member(A), Shri P.S.Chaudhuri.

Appearances:

Mr.M.V.Holamgi, advocate  
for the applicant and  
Mr.R.C.Kotiankar (for  
Mr.M.I.Sethna) for the  
respondents.

Oral Judgment:

{Per Shri M.B.Mujumdar, Member(J)}

Dated: 26.10.1989

The applicant, Mr.H.B.Pawar, had filed S.C.  
Suit No.715/85 in the City Civil Court at Bombay and it  
is transferred to this Tribunal under section 29 of the  
Administrative Tribunals Act.

2. Though the plaint is lengthy, the relevant facts  
are very few. The applicant joined service as a civilian  
Fireman Gr.II in the Naval Dockyard Fire Brigade section  
on 14.7.1952. He was promoted as Fireman Gr.I on 1.11.54,  
as Havildar on 10.9.1956 and as Leading Hand Fire  
(Selection Grade) on 5.2.1979. He had attended the  
Elementary Fire Fighting Training Course at the Training  
Centre, Delhi Cantonment in which he was placed in  
II Grading, in December, 1957. However, he was not  
promoted to the igher post of Supervisor and hence he  
filed this suit on 2.2.1985 for a declaration that he is  
entitled for promotion to the post of Supervisor in the  
year 1957 and at least from 1976 and further promotion to  
the post of Civilian Assistant Fire Master from 1981, with  
all arrears of pay and allowances. He has also prayed for  
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a permanent injunction against the respondents from promoting his juniors and from by-passing the promotion rules in SRO 145/76. He has also prayed for certain other consequential reliefs, but they need not be stated here.

3. We are sorry to note that though the respondents have filed their exhaustive written statement, they have not given some facts correctly and completely. Hence on our directions they have brought the relevant records. We will state the relevant facts from the record at a later stage.

4. We have heard Mr.M.V.Holamgi, learned advocate for the applicant and Mr.R.C.Kotiankar (for Mr.M.I.Sethna) for the respondents and we are of the view that the applicant has filed the suit because he was unaware of the relevant Rules and facts.

5. The main grievance of the applicant is that though in 1957 he had attended the Elementary Fire Fighting Training Course at the Training Centre, Delhi Cantonment he was not considered for the higher post of Supervisor Gr.II.

6. As the suit was filed in February, 1985 it will not be legal on our part in any case to grant any relief for which a cause of action had arisen more than 3 years prior to institution of the suit. Still, after considering the arguments before us we have no doubt that the applicant was not entitled to be considered for promotion to the post of Supervisor Gr.II on the basis of attending the said course.

7. A Full Bench of this Tribunal in *Maharban Khan v. Union of India* [Full Bench Judgments of the Central Administrative Tribunal (1986 to 1989) page 1] has held

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that suits which are transferred to this Tribunal will be governed by the provisions of the Limitation Act. Hence the applicant will not be entitled to any relief for which cause of action had arisen prior to February, 1982.

8. Still, we may point out that, according to Navy Order No.61/59, for being eligible to be considered for promotion to the post of Fire Supervisor Gr.II a candidate was required to be in possession of a Diploma from the Ministry of Defence, Fire Fighting Training Centre, Delhi Cantonment or any other institution recognised by the Ministry of Defence in this behalf plus 3 years service as Hawildar. The applicant completed 3 years of service as Havildar on 9.9.1959 and Mr.Holamgi fairly conceded that the applicant was not entitled to be considered for promotion as Fire Supervisor Gr.II before that date. But in our view the applicant was not entitled to be considered for promotion to that post even after that date because we do not think that the certificate on which he is relying and which is at Ex.'A' to the plaint is a Diploma from the Ministry of Defence, Fire Fighting Training Centre, Delhi Cantonment. It is just a certificate about attending the Elementary Fire Fighting Training Course and nothing more than that. Hence in our view, as per the Rules then in existence the applicant was not entitled to be considered for promotion to the higher post of Fire Supervisor Gr.II in 1959 or earlier.

9. Before stating the other relevant facts which have emerged from the record shown to us by Mr.Kotiankar on behalf of the respondents, we may refer to the relevant Rules. Ministry of Defence Group 'C' and 'D' (Fire Service) Recruitment Rules, 1976 were promulgated by the President in exercise of the powers conferred by the proviso to Article 309 of the Constitution regulating

the method of recruitment to Group 'C' and Group 'D' posts of Fire Fighting staff under the Ministry of Defence. By these Rules the posts of Fire Supervisors Gr.I and II were merged and were called Supervisor (Fire). According to these Rules, a Leading Hand Fire (Selection Grade) with 2 years continuous service and possessing qualification of Senior Fire Supervisor Course from the Defence Institute of Fire Research, Ministry of Defence, New Delhi was eligible to be considered for promotion to the post of Supervisor (Fire). The applicant successfully completed that course from 12.9.1981 to 6.11.1981 as can be seen from the certificate dt. 4.5.1982 at Ex.'B' to the plaint. In view of this certificate he was eligible to be considered for promotion to the post of Supervisor (Fire) on and from 6.11.1981. But these 1976 Rules were superseded by another set of rules called the Indian Navy (Group 'C' and 'D'), Fire Fighting Staff Recruitment Rules, 1981. The main change according to these Rules, so far as the post of Supervisor (Fire) was concerned, was that so far as the departmental candidates are concerned no educational qualification was prescribed. Again those Rules were amended in 1985 but these amendments are not relevant in this case.

10. This takes us to the record regarding the various DPCs held in and after 1981 for promotion to the post of Supervisor (Fire). On 17.6.1981 DPC meeting was held but nobody was selected for the post of Supervisor (Fire) because no candidate holding the required qualification was available. We may point out that the applicant had completed the Senior Fire Supervisor's Course from 12.9.1981 to 6.11.1981. But that was after the meeting of the DPC on 17.6.1981. The next DPC was held on


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7.7.1982. It selected some persons for the post of Supervisor (Fire). All these 6 persons were graded as "very good". The applicant was considered, but he was graded "good" and hence he could not be empanelled for promotion. The next DPC was held on 18.9.1983. It recommended 5 persons for being promoted as Supervisor (Fire). The first was graded "very good", the second as "good", and the remaining 3 as "average". The applicant was also considered, but he was graded as "average". Those 3 who were graded "average" but recommended for promotion were senior to the applicant. The next DPC was held on 20.2.1985 and the DPC recommended 6 persons, for the post of Supervisor (Fire). All of them were graded "very good". The applicant was considered but graded "good" and hence he did not find a place in the panel. The next DPC which was held on 20.3.1986 had recommended 6 names for promotion to the post of Supervisor (Fire). That DPC graded the applicant as "very good" and hence he was duly empanelled and promoted as Supervisor (Fire) w.e.f.

1.4.1986. We may point out that he is also promoted to the higher post of Civilian Assistant Fire Master on 1.2.1987 and at present he is holding that post. We have given the above facts after carefully going through the record and we are of the view that no injustice whatsoever is done to the applicant. We therefore, feel that if the applicant would have been aware of all the facts and rules he would not have filed the suit at all. Unfortunately, he had no opportunity to go through the record and that is why he has filed the suit.

11. In result, we find no substance in the application i.e. S.C. Suit No.715/85, and hence we

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dismiss the same, with no order as to costs.



(P.S. CHAUDHURI)  
MEMBER (A)



(M.B. MUJUMDAR)  
MEMBER (J).