

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

T.A. No.324/86

V.K.D. Panicker,
Residing at Khadki,
Pune-411 003.

Applicant

V/s

Union of India,
Secretary to the
Ministry of Defence,
Government of India,
New Delhi.

Respondent

Coram : Hon'ble Shri Justice B.C. Gadgil, Vice-Chairman
Hon'ble Shri P. Srinivasan, Member (A)

Appearance

Shri A.V. Lokhande for
the applicant.

Shri J.D. Desai for the
Respondent.

ORAL JUDGMENT

(Per Shri P. Srinivasan)

Date : 9.10.1987

This application originated as Regular Civil Suit
No.1357/81 before the Fifth Joint Civil Judge (SO), Pune.

2. The applicant who was working as Armoured Fighting
Vehicle Mechanic (AFVM) in the Central Armament Fighting
Vehicle Depot (CAFVD), Kirkee, retired from service on
31.7.1982. His prayer in this application is that a
direction be issued to the respondents to promote the
applicant to the post of Master Craftsman (MC) with
effect from 4.1.1980 and give him pay and allowance in
that post from that date.

3. Shri A.V. Lokhande, learned counsel for the appli-
cant made the following submissions: The applicant passed
a trade test for the post of Senior Charginan in 1972,
but was not promoted to that post in that year even though
his juniors were promoted. The applicant filed a suit
in 1976 for recovery of travelling allowance which had
been denied to him by the Respondent and this suit was

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decreed in his favour on 3.10.1979. On 2.6.1980 the applicant's name was removed from the waiting list of persons for promotion to the post of Senior Chargeman. These facts were mentioned by Shri Lokhande to indicate the Respondents had some animus against the applicant.

4. In 1980 the question of filling up posts of MC arose. According to Shri Lokhande, the applicant took the trade test for this purpose on 4.1.1980 and was placed first among 12 selected candidates on 20.1.1980. In spite of this the applicant had not been promoted to as MC. He, therefore, contends that the applicant was entitled for promotion as MC as a result of the trade test held on 4.1.1980, with effect from 4.1.1980.

5. Shri J.D.Desai, learned counsel for the Respondents sought to refute the contentions of Shri Lokhande. The trade test for appointment of MC was not held on 4.1.1980 but on 22.1.1980. In this test, the applicant had obtained 36 marks and was declared failed. Shri Desai produced the records of the office of CAFVD for our perusal in this connection. These records show that the Board of officers of CAFVD assembled on 22.1.1980 for the purpose of selecting persons for the posts of MC. 52 candidates appeared for the trade test held on that date including the applicant. The applicant obtained 36 marks and was declared failed. The Board of officers selected 11 candidates on the basis of merit and marks obtained in the test. The result announcing the names of 11 successful candidates on the basis of merit ~~and~~ was signed by Maj. Dalip Singh, Presiding Officer, Maj. Sudesh Kumar, Shri D.S. Ballal, Shri V.G.Phansalkar and approved by Lt. Col. K.R. Nath, Chief Ordnance Officer.

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Shri Desai pointed out that the evidence of the original records maintained by the Respondents in the ordinary course of business has to be accepted unless the applicant is able to rebut it by producing other acceptable evidence. The applicant has not been able to rebut this and, therefore, the fact is that the applicant failed to pass the trade test for appointment as MC and so was rightly not appointed.

6. Shri Lokhande showed us a certificate dated 28.2.1985 issued by Lt. Col. Sudesh Kumar stating that he conducted a trade test of the applicant for the post of MC on 4.1.1980 and that the applicant had qualified therein. This, according to Shri Lokhande, conclusively established that the applicant had passed the test on 4.1.1980 and should have been promoted as MC from that date. Shri Desai on the other hand contended that the contemporaneous official record of which Lt. Col. Sudesh Kumar is one of the signatories was more reliable and the certificate shown by Shri Lokhande issued on a much later date from memory cannot be relied upon.

7. Having considered the contentions of both sides we are of the view that this application deserves to be dismissed. The crux of the controversy is whether the trade test for the appointment as MC was held and whether the applicant succeeded in that test. This can be resolved only by reference to the official records which the applicant has not been able to prove to be incorrect. The official records perused by us very clearly indicate that the test was held on 22.1.1980 and that a Committee of four senior officials presided over by Maj. Dalip Singh selected 11 candidates on the basis of marks obtained and the list was approved

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by the Chief Ordnance Officer. This ~~successful~~ ^M list did not include the names of the applicant. The marks sheet in the records shows that the applicant obtained 36 marks and was declared failed. In the face of this record, the applicant's claim that he should have been promoted as MC with effect from 4.1.1980 has to fail.

8. In the result the application is dismissed. Parties to bear their own costs. The official record produced by Shri Desai is returned to him.



(P. SRINIVASAN)
Member (A)



(B.C. GADGIL)
Vice-Chairman

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