

(9)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

C.A. 262/86

Chatursingh Hira Singh Rajput,
728, Gokhale Nagar,
Pune - 411 016.

.. Applicant

vs.

1. Union of India
through
Secretary to the
Govt. of India,
Ministry of Defence,
New Delhi.
2. The Director,
Armament Research & Development
Establishment,
Pashan,
Pune - 411 021.
3. Shri B.R.Shinde,
R.D.No.109,
Armament Research and
Development Establishment,
Pashan,
Pune - 411 021.
4. Shri Hari Ram,
R.D.No.338,
Armament Research and
Development Establishment,
Pashan,
Pune - 411 021.

.. Respondents

Coram: Hon'ble Shri U.C.Srivastava,
Vice-Chairman.

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

Appearances:

1. Mr.J.M.Chitale
Advocate for the
Applicant.
2. Mr.A.I.Bhatkar
for respondents
No.1 and 2.

ORAL JUDGMENT:

Date: 16-7-1991

¶Per U.C.Srivastava, Vice-Chairman¶

The applicant has approached this Tribunal to declare that he has passed the trade test of Tool Maker(wood working) held on 29-10-1978 with more proficiency as compared to respondent No.3 and it may be declared that he is entitled to the promotional post with effect from 1979. Failing to get any relief from the departmental authorities the applicant filed Civil Suit alleging the facts in his favour. It was clearly averred in his plaint

that the trade test for Tool Maker (Wood working) commenced at 9 a.m. and tools were given to defendant Nos. 3 and 4 whereas the applicant was supplied the tools at 10 a.m. and finished his job at 6 p.m. whereas Defendants Nos. 3 and 4 though given the tools at 9 a.m. stated earlier, finished their jobs at 8.30 p.m. and authorities conducting the Trade Test have thus discriminated against the plaintiff thereby causing injustice to the ~~app~~ plaintiff. By his letter dated 12.6.1979 the plaintiff brought this fact to the notice of 2nd Defendant but to his great astonishment, he received a warning for making allegations against the senior officials and was threatened of severe disciplinary action. He again requested the 2nd Defendant not to destroy the jobs and papers concerning his trade test till the case is finally decided wherein it was also pointed out that persons holding ticket No. RD 374, RD 488 and RD 274 did not actually appear for the trade test and still they were promoted. By letter dated 9-7-1980 the plaintiff was informed that no action based on the previous qualifying test can be taken at this stage.

2. In the written statement filed by the defendant no specific denial apart from general denial was made and the reply on this point is rather cryptic. In the written statement it was ~~said~~ that the contents of para 4 of the plaint are incorrect and are denied by the respondents. It is stated that a Board of Officers was appointed to trade test and assess the suitability, including the Plaintiff. In order to have a fair deal, an Officer from other Establishment, who is not connected to this office in any way associated as a member of the Board. Therefore, the contention of the Plaintiff that the authorities have shown discrimination against the

Plaintiff is not acceptable..... The validity of the trade test will ~~be~~ only for a period of one year and the individuals not promoted during the period of one year have to appear for a fresh trade test to become eligible for promotion.

3. Thus there was no specific denial of the averments made by the applicant regarding the timing of that those who did not appear in the trade test were promoted. It is strange that notwithstanding the order 8 Rule 6 of the Civil Procedure Code is ignored to consider the pleadings of the party. Undoubtedly the applicant and respondent both ~~were~~ examined witnesses. The applicant examined three witnesses and respondent examined one witness to deny all such allegations but the pleadings of the parties are very specific in this respect. Obviously the promotion is given by the seniority. It is not possible for the Tribunal to assess the evidence apart from the reference to the pleadings which itself indicate that the case of the applicant is not without substance. The case was decided in the year 1985 but the applicant approached the Tribunal more than a year thereafter. Although an application for condonation of delay has been given we are ~~not~~ not satisfied that this is a fit case in which delay is to be condoned. We dismiss the application with an observation that in the fitness of things the respondents should consider the case of the applicant for promotion ~~as~~ as and when vacancy ^{is} available and to give a chance for the same.

4. With the above observation the application is dismissed. There will be no order as to costs.


(M.Y. PRIOLKAR)
Member(A)


(U.C. SRIVASTAVA)
Vice-Chairman

(12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, "GULESTAN" BUILDING NO.6
PREScot ROAD; BOMBAY-1

REVIEW PETITION NO.89/91
IN O.A. NO. 262/86

Chatursingh Hira Singh Rajput

..Applicant

v.

Union of India & 3 ors.

..Respondents

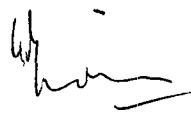
Coram: Hon.Shri Justice U C Srivastava, V.C.
Hon.Shri M Y PRIOLKAR, Member(A)

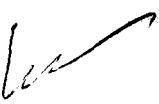
TRIBUNAL'S ORDER
(PER: U C SRIVASTAVA, VICE CHAIRMAN)

DATED: 03.01.92

This is a Review Petition against our judgment dated 16.7.91. The case was decided after hearing the counsel for the parties and perusing the record. We do not consider that a hearing of parties is required to decide this review petition and hence deciding the same by circulation. The applicant had filed a Civil Suit which was dismissed and thereafter the applicant has filed OA No.262/86 against that judgment on 16-8-1986. He admittedly applied for a copy of judgment and decree on 5.8.1985 and got the same on 21.1.1986. The application is highly belated and is in respect of a trade test which took place in the year 1978. The applicant has given the date of judgment and decree as 3.2.1981 decided by Civil Judge Senior Division, Pune.

After taking into consideration the facts of the case we were not satisfied with the delay and dismissed the OA No.262/86 on the ground of limitation. We do not find any error apparent on the face of the judgment and accordingly this Review Petition No.89/91 is rejected.


(M Y PRIOLKAR)
MEMBER (A)


(U C SRIVASTAVA)
VICE CHAIRMAN