

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

QxXXXNo.
T. A. No. 239/86

198

DATE OF DECISION 13-3-1991

Shri R.T.Lawangare Petitioner

Mrs. L.S.Desai Advocate for the Petitioner(s)

Versus

Supdt.of Vocational Rehabilitation Respondents
Centre for Handicapped, Bombay & Ors.

Mr.P.M.Pradhan for R.No.1 to 4 Advocate for the Respondent(s)

Mr.P.V.Deshpande for R.No. 5.

CORAM

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

The Hon'ble Mr. T.C.Reddy, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Y*
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.A.No. 239/86

Shri Ramchandra Tukaram Lawangare ... Applicant
v/s.

Superintendent of Vocational
Rehabilitation Centre for Handicapped,
Advanced Training Institutes' Compound,
V.N.Purav Marg, Sion, Bombay & Others. ... Respondents

CORAM: Hon'ble Member (A) Shri M.Y.Priolkar
Hon'ble Member (J) Shri T.C.Reddy

Appearance

Mrs. L.S.Desai
Advocate
for the Applicant

Mr.P.M.Pradhan
Advocate
for Respondents No. 1 to 4

Mr.P.V.Deshpande
Advocate
for Respondent No. 5

JUDGEMENT

Dated: 13-3-1991

(PER: M.Y.Priolkar, Member (A)

This is original Writ Petition No. 1421 of 1985 filed in the Bombay High Court which has been transferred to this Tribunal and renumbered as Transferred Application No.239/86. The applicant (original Writ Petitioner) who belongs to Scheduled Caste community, was promoted to the post of Vocational Instructor (Metal Cutting Trade) on regular basis with effect from 22.6.1977 in Vocational Rehabilitation Centre for Handicapped in the Advanced Training Institute, Bombay, under the Ministry of Labour. The grievance of the applicant is that although he was better qualified in view of his technical qualification and experience to the further promotion posts of Workshop Foreman and Workshops Engineer, Respondent No. 5 who has no technical qualification has been appointed to these posts in preference to him, due to favouritism, by manipulating the recruitment rules for those posts and also not observing the Government instructions regarding reservation for Scheduled Castes in services.

2. The applicant has alleged that the essential educational qualification for the post of Vocational Instructor in commerce trade, which was Matriculation with National Trade Certificate in the appropriate trade, was changed on 8.7.1976 to graduate with Diploma/Certificate in Commercial or Secretarial Practice just to ensure Respondent No. 5's appointment to that post on 31.12.1976, and her father, Shri R.D.Shrivastav had presided over Selection Committee/D.P.C. meetings at Vocational Rehabilitation Centres at Bombay and other places. The respondents have denied these allegations. They have stated that the change was considered necessary because the clients admitted to commerce trade were of Matriculate level and therefore it was felt that the instructional staff should have still higher qualification of graduate. They have also stated that the selection Committee in the instant case was chaired by the Director of Employment Exchanges and not by the father of Respondent No. 5 as alleged. There is no satisfactory explanation why a change in the recruitment rules and a selection made in 1976 is being challenged by the applicant only in 1985. Even otherwise, in view of the justification furnished by the respondents, we do not think the change in the recruitment rules which was effected with the approval of all other departments concerned including the Ministry of Home Affairs can be considered as arbitrary or unreasonable nor is there any evidence that it was intended only to provide employment to Respondent No. 5.

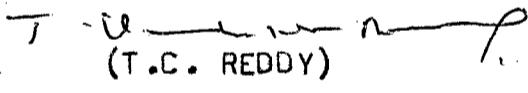
3. The applicant has also challenged the subsequent promotions of Respondent No. 5 to the posts of Workshop Foreman and Workshop Engineer, not on grounds of any specific violation of the relevant recruitment rules but on the ground that the Recruitment Rules themselves are arbitrary and unreasonable since they do not prescribe technical qualification or technical experience for promotion to these posts which involve technical duties. The applicant's contention, therefore, is that these recruitment rules do not contemplate promotion of a non-engineering person

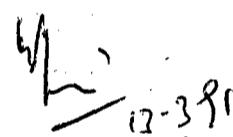
to these posts. We find little substance in this contention. As prescribed in Chapter IV of the Hand Book on Working of Vocational Rehabilitation Centres for Physically Handicapped, the duty of the Workshop foreman is to monitor and supervise the evaluation of various categories of handicapped persons in different sections of workshop, where the real technical work is carried out by the concerned Vocational Instructor who is already qualified for that particular trade. We do not see anything absurd or unreasonable in these recruitment rules or in Diploma or Certificate in Commercial or Secretarial Practice being considered a technical qualification by the department. In any case, framing of recruitment rules is a management function and we see no justification to strike down these recruitment rules as arbitrary or discriminatory, merely on the averments of an affected party. We do not also see any basis for the applicant's contention that the amendment in 1985 in the rules making the Workshop Engineer's post a non selection post has no rational nexus since it is a Group B non gazetted post and it is stated by the respondents that it has been kept in the purview of non selection being single post for promotion in order to safeguard the interest of the seniormost incumbents.

4. The second grievance of the applicant is regarding non-observance of the instructions for reservation in the services for Scheduled Castes employees. The learned counsel for the applicant argued at great length how one Mr. Mendekar should have been promoted to the post of Workshop foreman in the year 1981 so that after 3 years in 1984 he would have become entitled to the post of Workshop Engineer and the post of Workshop foreman would have fallen vacant. In accordance with Government instructions the said post would have been reserved and the applicant being the only eligible candidate in the reserved category, he would have been entitled to promotion instead of Respondent No. 5.

The applicant would thus have been promoted as Workshop foreman earlier than Respondent No. 5 and would, therefore, have become entitled to promotion to the post of Workshop Engineer. Apart from the highly speculative nature of these contentions, there was, admittedly, only one post each of Workshop foreman and Workshop Engineer. The Supreme Court has held in its judgment dated 8.3.1988 in the case of Dr. Chakradhar Paswan v State of Bihar and others (AIR 1988 SC 959) that if there is only one post in the cadre, there can be no reservation with reference to that post either for recruitment at the initial stage or for filling up a future vacancy in respect of that post. This grievance of the applicant is also, therefore, not well founded.

5. In the circumstances, we do not see any merit in any of the contentions raised on behalf of the applicant. This transferred application is, accordingly, rejected with no order as to costs.


(T.C. REDDY)
MEMBER (J)


(2-391)
(M.Y. PRIOLKAR)
MEMBER (A)