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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.213/89 & O.A. 214/89

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|-----------------------------|--------------------------------|
| 1. Shri Ramesh Mahadeo Raut | .. Applicant in
O.A. 213/89 |
| 2. Shri Arun Madhukar Raut | .. Applicant in
O.A. 214/89 |

-versus-

Union of India & Ors. .. Respondents

Coram: Hon'ble Shri B.S.Hegde, Member(J)

Hon'ble Shri M.R.Kolhatkar, Member(A)

Appearances:

1. Mr.Ganguli for
Mr.Deshpande
counsel for the
applicant.
2. Mr.J.G.Sawant
counsel for the
Respondents.

JUDGMENT :
Per M.R.Kolhatkar, Member(A)

Date: 18.8.96

As the facts are similar and the
reliefs claimed ^{are} also identical, we are
disposing of these two applications by a
common judgment. The applicants impugn
their non selection for the post of Chargeman
Gr.'B' in the scale of Rs.1400-2300. Applicants
who were recruited as Carpenters were subse-
quently promoted as Skilled Artisan Gr.II
and Skilled Artisan Gr.I (Maistry). The
grievance is in respect of further promotion
as Chargeman Gr.'B'. On 21-11-88 a list of
candidates eligible to appear before the
selection board for viva voce test was published
on the basis of the ^{written} test held on 12-10-1988.
The names of the applicants did not figure

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in this list. The applicants represented on 22-11-88 stating that they were senior, and they were in the zone of consideration and their names ought to have^{been} included in the list of interview. Therefore on 23-11-88 the earlier list of candidates circulated on 21-11-88 was cancelled and on 12-12-1988 a fresh list of the candidates eligible for viva voce test was published in which the names of the applicants appeared. The final selection was announced on 13-2-1989 vide page 14 in which the names of the applicants are not there. The applicants challenge this selection on the ground that the interview committee was not constituted properly and that there was bias against the applicants because they had earlier represented on 22-11-88 against the list of interview published on the previous date. They have therefore requested the selection list to be quashed as being illegal, invalid and discriminatory.

2. The respondents have resisted the claim of the applicants. It is conceded that on consideration of the representation of the applicants, the competent authority instructed the selection committee to review the result of the written test and a fresh list of employees was declared listing the names of those eligible to appear before the selection board for viva-voce test. It is denied that the selection board was constituted improperly. It is claimed that the selection board was constituted

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in accordance with Establishment Manual Rule No.214 and 215, according to which the selection committee is to consist of three officers; two senior scale officers and the third officer is required to be a Personnel Officer who can be one grade below. According to the respondents, on the basis of the performance of the candidates the final selection was announced. The post in question is a selection post and therefore the selection is required to be made on the basis of merit cum seniority. The merit is adjudged on the basis of the professional ability, performance in viva-voce test and record of service xxxxxxxxx It is denied that there is any bias in the selection.

3. The applicants at the argument stage have relied on the decision of the Bombay High Court in Madhukar Jayaram Deshmukh v. CIDCO, 1991 II CLR 952. In this case, the Bombay High Court held that the adverse remarks of the petitioner in that case were not communicated to the petitioner and the case of the petitioner was not considered by the respondent^{No.1}/fairly and in accordance with law and therefore CIDCO was directed to reconsider the case without taking into consideration adverse entries in his confidential records after constituting a fresh committee of the Board of Directors for the purpose of selection. In our view

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this case does not help the applicant.
because there is nothing to indicate that
there were any uncommunicated adverse
remarks in respect of the applicants, and
there is no material to show bias apart
from bare statement that the respondents
were bearing a grudge because of the
representation made by the applicants.
Since the basis of the selection was
merit-cum-seniority the fact that the
applicants were senior is also not
conclusive. In the result we find that
the application is without merit and
dispose of the same by passing the
following order.

O R D E R

O.A. is dismissed.

No order as to costs.

(M.R. KOLHATKAR)
Member(A)

(B.S. HEGDE)
Member(J)