

9

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 464/89

Transfer Application No:

DATE OF DECISION: 12.10.1994

V.S.Ohol. Petitioner

~~xSxxx~~ - Advocata for the Petitioners

Versus

Union of India & Ors. Respondent

S/Shri V.S.Masurkar & G.K.Nilkanth.
Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,

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

1. To be referred to the Reporter or not ? M
2. Whether it needs to be circulated to other Benches of the Tribunal ? M


(M.S.DESHPANDE)
VICE-CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY.

Original Application No.464/89.

V.S.Ohol. Applicant.

V/s.

Union of India & Ors. Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,
Hon'ble Shri M.R.Kolhatkar, Member(A).

Appearances:-

~~None for~~ the applicant.
Respondents by S/Shri V.S.Masurkar,
G.K.Nilkanth.

Oral Judgment :-

{Per Shri M.S.Deshpande, Vice-Chairman} Dt. 12.10.1994

By this application the applicant challenges the denial by the Respondents to grant him regular promotion in the I.A.S. w.e.f. 1.6.1985 and seeks a declaration that his reversion on 26.1.1986 from the I.A.S. cadre was unlawful and a mandatory injunction to Respondents to promote him to I.A.S. Cadre from 1.6.1985.

2. The applicant was absent when the case was taken up for hearing. Earlier the application had been dismissed in default of the appearance of the applicant and it was restored to file. Even on the last occasion, the applicant was absent and we thought it proper to hear the application on merits. We went through the averments in the application and heard the learned counsel for the Respondents S/Shri V.S.Masurkar and G.K.Nilkanth.

3. There is no dispute about the fact that the applicant who belonged to the Maharashtra State cadre was included in the select list of 1984, but [redacted] only three persons from the list comprising of 15 persons ~~was~~ could be promoted and ^{not} the applicant whose number was lower down in the order of the candidates in the select list. The name of the applicant was included in

select list of 16 persons prepared on 13.12.1984 and he stood at sl. No.3 of the said list, but none of those who were in the select were promoted because the Respondent No.2 noticed certain adverse facts relating to the applicant. In the list prepared on 19.12.1985, 15.12.1986, 31.2.1987 and 31.12.1988 the applicant did not figure.

3. According to the Respondents certain facts adverse to the applicant came to be noticed by the State Government and a notice was issued by the Lokayukta in respect of the charges. The State Government could not therefore issue an integrity certificate in favour of the applicant which was essential before he could find a place in the select list. The Lokayukta passed an interim order on 22.11.1985 and the applicant came to be reverted from the cadre post in which he was officiating on 16.1.1986. The applicant challenged the inquiry which was initiated by a Writ Petition against him/in the Bombay High Court and the High Court by its order dt. 30.11.1987 held that the memorandum of inquiry dt. 26.8.1987 was quite in order. The submission on behalf of the applicant that he had been punished once on the basis of the facts which constituted the articles of charges was not accepted by the High Court. We are informed that the inquiry which came to be initiated against the applicant is not yet over.

4. The applicant's grievance in the application is that the Lokayukta ~~was not~~ could not only the administrative lapses on the part of the State Government employees ^{and} could not have inquired into the quasi-Judicial Acts which the applicant and the then Collector of Sindudurg had performed in the course of their official duties. They were statutory duties and could not be a subject of an administrative inquiry by the

Lokayukta. This point is not available to the applicant in view of the observations of the Supreme Court in Union of India V/s. K.K.Dhawan (1993(1) A.T.J. 360), wherein it was held that Disciplinary Proceedings could be initiated against a Quasi Judicial Authority viz. I.T.O., while exercising functions resulting in undue favour upon the assessee and the Government cannot be precluded from initiating the Disciplinary Proceedings. In view of this position, we see no merit in the contention of the applicant that no inquiry could have been initiated by the Lokayukta and the reversion which followed the finding recorded by the Lokayukta was not in order. There was, therefore, some justification for the State Government in not issuing the integrity certificate and for not recommending the applicant's name for inclusion in the select list. The Respondent No.1 had to act on the basis of the recommendations of the State Government and we see no merit in the contention that the applicant had been deliberately kept out of the select list and was therefore, entitled to appointment. We, however, make it clear that we do not have before us the result of the inquiry which proceeded on the basis of the charge sheet dt. 26.8.1987 and since we have not considered that aspect it would be open to the applicant to seek his remedy after that inquiry is completed, if one is available to him. With this liberty the application is dismissed.

M.R. Kolhatkar

(M.R. KOLHATKAR)
MEMBER (A)

M.S. Deshpande

(M.S. DESHPANDE)
VICE-CHAIRMAN

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