

(16)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 794/89

Transfer Application No:

DATE OF DECISION: 22.3.1994

A.M. Bhosale & Ors.

Petitioner

Shri S.R. Atre

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Shri A.I. Bhatkar & Shri S. Natarajan.

Advocate for the Respondent(s)

CORAM :

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

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

1. To be referred to the Reporter or not? NO
2. Whether it needs to be circulated to other Benches of the Tribunal? NO


(M.S. DESHPANDE)
VICE-CHAI RMAN

(12)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH.

Original Application No.794/89.

A.M.Bhosale, & Ors. Applicant.

V/s.

Union of India & Ors. Respondents.

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

Appearances:-

Applicants by Shri S.R.Atre.
Respondents No.1 & 2 by Shri A.I.Bhatkar.
Respondents No.3 to 21 by Shri S.Natarajan.

Oral Judgment:-

1. Per Shri M.S.Deshpande, Vice-Chairman Dt. 22.3.1994.

Heard counsel for the parties. The only question which arises for consideration before us is whether the tentative seniority list dt. 31.3.1989 had become final and whether the promotions granted on the basis of that seniority list to the Respondents No.3 to 21 could have been final.

2. The present 19 applicants were Sepoys in the Customs Department, while the Respondents No.3 to 21 came to be posted to the Bombay Customs House vide an order at (Annexure A-2) which is an Establishment Order No.26/1964 dt. 5.2.1964 provided that in pursuance of the Central Board of Excise & Customs, New Delhi's F.No.32/8/62-Ad.IV dt. 24.1.1964 35 Sepoys which include the Respondents No.3 to 21 were rendered surplus as a result of the lifting of the Customs cordon around the erstwhile Portuguese possessions in India were transferred to Bombay Customs House with immediate effect. The contentions of the applicants are that by virtue of the principles at Annexure A-I regarding fixation of inter se seniority of the staff rendered surplus and redeployed on different occasions but in the same office. The Respondents No.3 to 21 should have been en bloc treated as juniors to

the 19 applicants. The relevant portion of Annexure A-I reads as follows:-

"When an employee is declared surplus in a particular grade in an office and is redeployed in a grade in another office, he is not allowed to count his service in his previous office towards seniority in the office where he is redeployed, vide M.H.A. O.M. No.9/11/55-RPS, dt. 22.12.1959."

On this basis it is urged that the applicants should have been regarded as seniors to Respondent Nos.3 to 21 who were new comers on account of re-deployment to the Mumbai Customs House. It appears that tentative seniority was drawn up on 22.6.1987 and another list was drawn up on 31.3.1989. The applicants were given position below Respondents No.3 to 21 and they raised a dispute about the placement by making a representation. It seems that various representations came to be made and that led to the preparation of several seniority lists, but nothing has so far been finalised. Pending finalisation of the seniority, the Respondents No.3 to 21 came to be promoted as Hawaldars in preference to the applicants and the applicants therefore approached this Tribunal for the aforesaid reliefs.

3. After we have heard the learned counsel, it became clear to us that no finality has been brought to the tentative seniority list so far prepared. By the interim order on 7.6.1989 an interim relief was granted inasmuch as the promotions of Respondents No.3 to 21 to the post of Hawaldars was to be subject to the final outcome of this case and if the Respondents No.1 and 2 were to promote other persons to the post of Hawaldars after that date, those promotions will also be subject to the final outcome of this case and this provision was to be brought to the notice of all the promotees. It is therefore, clear that though the Respondents No.3 to 21 came to be promoted they were made dependent of the

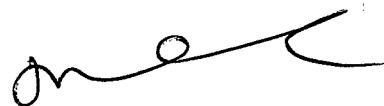
present case. Shri Atre, learned counsel for the applicant brought to our notice that after filing of the present application, all the applicants were also promoted as Hawaldars. It is also not in dispute that most of the Respondents No.3 to 21 barring a few have retired and those who are retired are not likely to come in the way of the present applicants further promotions, if any. All these promotions evidently were ad hoc and in view of this situation the applicants would not be entitled to claim precedence over Respondents Nos. 3 to 21 by the present petition until the final seniority is determined nor can a claim of higher wages be made on the basis of the promotions ~~was~~ given to Respondents No.3 to 21.

4. Considering that it is always open to the department to prepare the final seniority list and none has been prepared so far, the present application would become pre-mature. All that we need direct to day, is that the authority determining the seniority, the Deputy Collector of Customs R-2 shall treat the present OA as a representation of the applicants and after hearing the applicants and such of the Respondents who deserve to be heard in the matter of preparation of final seniority list, shall prepare the final seniority list within four months from the date of the communication of the order. The promotions made so far may be treated as ad hoc and would not create any rights in favour of any of the applicants for claiming higher emoluments on the basis that Respondents No.3 to 21 who were promoted earlier were drawing higher pay scales.

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5. With these directions, the present application
is disposed of. No order as to costs.



(R.RANGARAJAN)
MEMBER (A)



(M.S. DESHPANDE)
VICE-CHAIRMAN

B.