

(B)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 396/89
TAXXXXN6.

198

DATE OF DECISION 28.8.1990

Shri D.S.Panda & 16 Others .. Petitioners_____
Advocate for the Petitioner(s)

Versus

Union of India & Ors .. RespondentShri V.S. Masurkar, Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. G. Sreedharan Nair, Vice Chairman.

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

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
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

Original Application No. 396/89

Shri D.S.Panda & 16 others ... Applicants

vs.

Union of India & Ors. ... Respondents

CORAM: Hon'ble Vice Chairman, Shri G.Sreedharan Nair
Hon'ble Member (A), Shri M.Y.Priolkar

Appearances:

None present for the applicants.

Shri V.S.Masurkar, Advocate,
for the Respondents.

JUDGEMENT:

Dated : 28 August 1990

(Per Shri M.Y.Priolkar, Member (A))

The application is filed by 17 Group D employees who were working as Unskilled Labourers at the Naval Dockyard, Bombay. They were recruited between 1977 and 1980 as casual workers and regularised as Unskilled Labourers around the year 1980. Between January 1984 to May 1985, charge sheets were issued to them for the misconduct of securing employment by fraudulent means viz. by producing fictitious school leaving certificates. The applicants pleaded guilty to the charges. Enquiries were conducted and between December 1985 and January 1987, penalty of withholding of increments for three years with cumulative effect was awarded by the Disciplinary Authority against all applicants except those at Nos. 15 to 17.

2. In November 1987, the Reviewing Authority issued show cause notices to the applicants at Sr. Nos. 1 to 14 proposing to enhance the penalty to "removal from service". After considering the representations they were removed from

service by order dated 5.4.1988 of the Reviewing Authority. Applicants at Sr. Nos. 15 to 17 were also removed from service by order dated 23.5.1988 of the Disciplinary Authority.

3. The removal orders are challenged by the applicants on the grounds, mainly, that at the time of their recruitment, no educational qualification was prescribed for the post of unskilled labourer and, therefore, the insistence on submission of school leaving certificate was illegal, that admission of charges was procured from the applicants by misrepresentation, that the review order of a date two years after the original penalty order is barred by limitation and that the orders of termination are violative of Articles 309 and 311 of the Constitution of India and have been passed without complying with the principles of natural justice.

4. The respondents had filed their written reply on 16.9.1989, a copy of which was served on the applicants on 18.9.1989. No rejoinder to this reply is, however, filed by the applicants. The case was kept for final hearing on 24.7.1990 and, on that day, adjourned to 22.8.1990. Neither any of the applicants nor their advocate was present on these days nor any communication received from them. We, therefore, heard the learned counsel for the respondents on 22.8.1990 and perused the record, and proceed to dispose of the application by this order.

5. It is conceded by the respondents that under the Recruitment Rules, educational qualification for Unskilled Labourers was not an essential condition but a desirable condition, which could be relaxed at the discretion of the

appointing authority. It was, however, not relaxed in these cases keeping in view the nature of work performed by unskilled labourers in Naval Dockyard, as stated by the respondents.

The minimum qualification of 8th standard passed was intimated to the Employment Exchange and the applicants names were sponsored by the Employment Exchange on this basis.

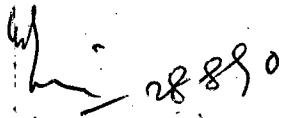
We do not agree that this qualification is unjust or that the appointing authority, using his discretionary powers, should have relaxed this qualification. Evidently, for recruitment to public services, the most meritorious available candidates have to be preferred and we are of the view that the action of the authorities of placing a requisition on the Employment Exchange showing the desirable qualification in the Recruitment Rules as the minimum qualification was in keeping with this objective. Since the school leaving certificate is essential to verify the date of birth and educational qualification of the candidates, we do not also see anything illegal in the demand for submission of such certificate, as contended by the applicants.

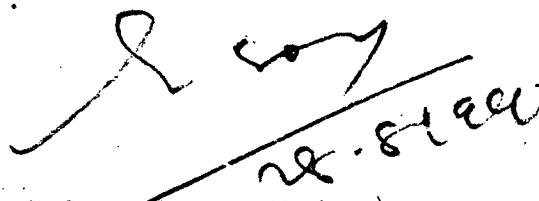
6. The respondents have stated that the allegation made by the applicants that the Enquiry Officer had asked them to plead guilty so that a lenient view could be taken of their misconduct is absolutely incorrect. In the absence of any evidence to substantiate this allegation, we have to reject this contention of the applicants. We do not also find any substance in the applicants' contention that the order of review is barred by limitation, since the reviewing authority's order was in exercise of the powers vested in him under Rule

29(1)(iv) of the C.C.S. (C.C.A.) Rules, 1965 to which no limitation period is applicable.

7. The applicants also contend that the orders of termination are in violation of the principles of natural justice without specifying in what respect the principles of natural justice have not been complied with. The respondents have conducted regular enquiries as required under the CCS (CCA) Rules, 1965. Since the applicants had pleaded guilty and submitted a written statement admitting the charge, no protracted enquiry was necessary. In fact, even in the present application, the applicants have not denied that they had produced false school leaving certificates. In these circumstances, it is difficult to accept that even if there were any procedural deficiencies in the disciplinary proceedings, they would have adversely affected the defence of the applicants.

8. On the basis of the foregoing discussion, we do not see any merit in any of the submissions made by the applicants. This application is, accordingly, dismissed with no order as to costs.


(M.Y. Priolkar)
Member (A)


(G.Sreedharan Nair)
Vice Chairman