

(P)
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. NO: 558/89

199

T.A. NO:

DATE OF DECISION 10/4/89

H.P. VHORA

Petitioner

MR. R. S. MOHITE

Advocate for the Petitioners

Versus

THE ADMINISTRATOR, DADRA AND NAGAR HAVELI and ors. Respondent

MR. R.J. NAIK AND A.S. RAO, advs. Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. JUSTICE U.C. SHRIVASTAVA, Vice-Chairman

The Hon'ble Mr. M.Y. PRIOLKAR, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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(U.C. SRIVASTAVA)
Vice-Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

ORIGINAL APPLICATION NO.558/89

SHRI H.P.VOHRA

....APPLICANT

V/s

THE ADMINISTRATOR,
DADRA AND NAGAR HAVELI
AND ANOTHERS

....RESPONDENTS

CORAM : HON'BLE JUSTICE MR.U.C.SRIVASTAVA, Vice-Chairman

HON'BLE MEMBER SHRI M.Y.PRIOLKAR, MEMBER (A)

Appearance

Shri R.S.Mohite,
Adv. for the applicant

Mr.R.J.NAIK AND A.S.RAO,
Advs. for the respondents.

JUDGEMENT

DATED : 10/4 1992

(PER : JUSTICE U.C.SRIVASTAVA, Vice-Chairman)

By means of this application, the applicant, who is Deputy Engineer, P.W.D., Irrigation Division, Administration of Dadra and Nagar Haveli, Silvassa has prayed that the impugned final seniority list published on 22.6.1989 under signature of Respondents of Respondent No.4 i.e. Collector of Dadra and Nagar Haveli and purporting to be the final seniority list of Deputy Engineer/Assistant Engineer/Assistant Surveyor of Works (Civil) as on 1.1.1988 be quashed and set aside as being null and void in law, and the respondents be directed not to consider or appoint the respondent No.2 and 3 to the post of Executive Engineer and also not to fill up the vacant posts of Executive Engineer in the Administration of Dadra and Nagar Haveli through deputation or by direct recruitment. The applicant was promoted as Dy.Engineer on 4.10.1972 and he was regularised on 29.12.1972 in the final gradation list. On 8.3.1984, the Collector had issued a Provisional Gradation list of

Executive Engineer and Dy.Engineer and objections and representations were also invited against the same. In the list according to the applicant the names of even such person who were working as Assistant Surveyor of Works and also of persons who were working as Assistant Engineers in the P.W.D. was also shown. According to the applicant the post of Assistant Surveyor of Works and Assistant Engineers are posts which have been separately created and differently designated by the Central Government although they carry a pay on par with that of the Deputy Engineer, but their functions and duties are also same. The applicant has filed the objections against the same and final gradation list was published on 28.3.1989. A Provisional seniority list ^{was issued} again on 1.1.1988 and objections were invited to the same. According to the applicant, as far as the Deputy Engineers are concerned, under the existing recruitment rules they are the only category who are entitled to the post of Executive Engineer, Assistant Engineer and Assistant Surveyor of Works are not eligible for the same. The applicant made a representation against the same, and the final gradation list was published by the Collector, though the provisional ^{list} was published by Administrator of Dadra and Nagar Haveli. This final list ^{was} jointly made for three posts. The applicant states that he ^{is} only 54 years and ^{has} 17 years of experience and is qualified to be promoted to the post of Executive Engineer, which post has became vacant due to retirement of Mr.M.J.Joshi, Executive Engineer. But the Administrator has not recommended his name as well as names of the respondents No.2 and 3 for promotion to the said post ~~and~~ temporary basis for 2 years. But the Collector who has not signed as a Appointing Authority, ~~and~~ the applicant.

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has challenge the same in the application No.408/88.

2. The respondents in their written statement have stated that the applicant is presently working as Asstt. Surveyor and he was transferred and posted as Asstt. Surveyor of works on 27.2.1986 in the Irrigation Department. And the applicant himself stated in OA No.408/88 that he was Asstt. Surveyor, which is equivalent to the post of Deputy Engineer. According to the respondents, both these posts are equivalent and are interchangeable for the promotion to the post of Executive Engineer and the Respondent No.4 has simply authenticated provisional gradation list and so far as the respondents No.2 is concerned his Efficiency Bar has been released on 8.3.1988 as such he is holding the post of Executive Engineer after having been regularly selected. And the respondent No.2 is also entitled to be promoted who is holding the post of Deputy Engineer for more than 7 years. The respondents No.2 was posted on 21.9.1982 and it appears that the respondent No.3 was also later on posted as Dy. Engineer. It is the evidence from the order dated 27th February 1986. As the Dy. Engineer are the feeder channel for the Asstt. Engineer and they can be considered for the appointment of the higher post of Executive Engineer. Obviously, the selection will be made in accordance with the recruitment rules which provides a numbers of years a person is to work as Dy. Engineer. It is true, that, it is for the Government to post as Dy. Engineer or Assitt. Surveyor as the pay scale are same. When the rules mentions about the Dy. Engineer and not any other equivalent post, it can not be taken to mean that it would include all the equivalent posts, in the final seniority list, which is subject matter of challenge. In view of the facts, we have allowed

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allowed application filed by the applicant for withholding of two efficiency bars and in which we have directed that the same may be released and have quashed the selection of respondent No.4 as Executive Engineer for particular reasons. The seniority list which was published earlier will have to be revised again and the applicant will ^{be} restored back to his position. With these observations that the seniority list should now be revised, in view of the facts, that the efficiency bars which were withheld ^{have} now been released and the application in this behalf has been allowed. The respondents are directed to revise ^{the} seniority ^{list} within a period of three months, after taking into consideration the consequential benefits for which the applicant is entitled as a result of our order alongwith O.A. in respect of efficiency bars ^{the judgment in which case} was also been pronounced today. No order as to costs


(M.Y.PRIOLKAR)
MEMBER(A)


(U.C.SRIVASTAVA)
Vice-Chairman

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