

(A)

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 430/89

~~T.A.X. No.~~

198

DATE OF DECISION 15-11-91

Shri P.B.Lingayat,

Petitioner

Mr.V.G.Mohril

Advocate for the Petitioner(s)

Versus

The Quality Assurance Officer

Respondent

Mr.Ramesh Darda

Advocate for the Respondent(s)

**CORAM**

The Hon'ble Mr. JUSTICE U.C.SRIVASTAVA, 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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(6)  
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH  
CAMP AT NAGPUR

ORIGINAL APPLICATION No.430/89

Shri P.B.Lingayat,  
Store Keeper  
in the Office of Quality  
Assurance Estt. (Armaments)  
Defence, Ambajhari, Nagpur.

... Applicant

V/s

The Quality Assurance Officer  
Quality Assurance Estt. (Armaments)  
Defence, Ambajhari, Nagpur  
and ors.

... Respondents

CORAM : HON'BLE MR.JUSTICE U.C.SRIVASTAVA, Vice-Chairman,  
HON'BLE MEMBER SHRI M.Y.PRIOLKAR, MEMBER (A)

Appearance

Shri V.G.Mohril, Adv,  
for the applicant

Mr.Ramesh Darda, Adv  
for the respondents

JUDGEMENT

DATED: 15-11-91

(PER : U.C.SRIVASTAVA, V/c)

Feeling aggrieved from the appointment of Respondent No.2 Mrs. Manju Bhardwaj, Hindi Translator, (Junior) in 1988, in the Quality Assurance Estt(Armaments) Ambajhari, Nagpur, the applicant, who claims to have been selected in the year 1986 for the said post has prayed this Tribunal for redressal of his grievance. From the facts as they are recorded, it appears that in June 1986 a vacant post of Hindi Translator was to be filled by direct recruitment in the office of Quality Assurance Estt.(Armaments), A departmental circular in this behalf was issued. The applicant, being eligible appeared in the written test and he was qualified for the same and according to him he has secured maximum marks than any other candidate, but his name was not informed about his selection or otherwise he was not appointed and the matter kept pending and ultimately the Respondent No.2 was appointed. Obviously, thereafter, in the month March,1988 the written test was took place in which the applicant was also participated. Subsequent to

test ~~and~~ on 7.6.1986 the office received directives from HQ vide dated 28.5.1986, that the Prime Minister's Secretariat is monitoring the recruitment of Orthopaedically handicapped/other physically handicapped personnel against the vacancy exclusively reserved for them and as such the change of physically handicapped into a general candidate is not advisable. It may be noticed that the advertisement was published in response to which the applicant ~~had~~ appeared. It was provided that the said seat was for handicapped person and in case no physically handicapped candidates are available general candidate will be appointed. As the result of the same was not declared, the information of the same was given to the Employment Exchange, which has sponsored the names. Later on the directives was received, that the post was made for handicapped person. In the result of the said test, which has been placed before us we have found that the Respondent No.2 has secured more marks than the applicant. The contention of the applicant is that he ~~had~~ appeared in the examination and he has ~~been~~ qualified in the same. He was empanelled in the select list and no fresh selection test could have taken place and the respondents were duty bound to appoint him. The applicant only qualified for the same, but no panel was declared. Merely because applicant qualified in the examination, ~~untill and no~~ handicapped person appears, ~~it was~~ the respondents <sup>were</sup> within their right to ~~waive~~ <sup>and</sup> not to make his appointment. The respondent could not have made any appointment in view of the ban on recruitment which was made by the Government of India, ~~as~~ such appointment and further when the ban was removed the process are started. During the period, the the applicant could not <sup>have</sup> been appointed after removal of ban. There was no question <sup>of</sup> of revival of the old selection.

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Even, otherwise, the applicant having participated in the second test for which it appears that, there is no protest, it is no longer open for him to challenge the said 'test, if the handicapped person for same reason or otherwise in the earlier selection could not appear and his appointment could have been made in the absence of ban and the applicant could have claimed the said post. The selection merely because, he was selected, he had no right over the said post, which <sup>is a</sup> ~~are~~ reserved post. We do not find any merit to upset the selection of the respondents and the application deserve to be dismissed. It is, accordingly, dismissed with no order as to costs.

M.Y.PRIOLKAR  
MEMBER (A)

U.C.SRIVASTAVA  
VICE-CHAIRMAN