

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
OA NO.207/1996

Mumbai this the 26th day of July, 2001

CORAM:HON'BLE SMT.LAKSHMI SWAMINATHAN, VICE CHAIRMAN(J)  
HON'BLE SMT.SHANTA SHAstry, MEMBER(A)

V.N.Shivankutty Nair,  
Refrigeration Mechanic(Skilled),  
Office of Asstt. Garrison  
Engineer, (E/M),  
Central, Kirkee, Pune-411 003. .... Applicant

By Advocate Shri S.P.Saxena

V/s.

1. The Union of India  
through The Secretary,  
Ministry of Defence,  
DHQ PO, NEW DELHI-110 011
2. The Commander Works Engineer,  
Offioce of C.W.E., Kirkee,  
Pune - 411 003.
3. The Garrison Engineer(Central),  
Kirkee, Pune-411 003.
4. The Chief Engineer,  
Pune Zone, Pune.
5. The Chief Engineer,  
Southern Command,  
Pune - 411 001.
6. Shri R.R.Gadekar,  
Refg. Mechanic (H.S. Gd-II),  
C/o.A.G.E., E/M(Central),  
Kirkee, Pune - 411 003 .... Respondents

By Advocate Shri R.R.Shetty proxy  
counsel for Shri R.K.Shetty.

(ORDER)(ORAL)

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman

In this application, the applicant has impugned the validity of the actions, followed by the order passed by the respondents dated 3/8/95. We have heard Shri S.P.Saxena, learned

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counsel for the applicant and Shri R.R.Shetty, learned proxy counsel for Shri R.K.Shetty for the respondents.

2. One of the main grounds taken by learned counsel for applicant is that no show cause notice has been issued to the applicant prior to the aforesaid impugned order being passed. He has also submitted that the order is a non-speaking order. On both these grounds, we find that factually the submissions are correct. However, Shri Ravi Shetty, learned counsel for the respondents has submitted that the previous promotion order passed in respect of the applicant was not in accordance with the Rules. He has, therefore, submitted that even if a notice were to be issued to the applicant now, it would result in the same order being passed as the respondents, according to him, have merely corrected their earlier order granting erroneous promotion to the applicant. In those circumstances, he has submitted that no purpose will be served by quashing the order merely on the ground of not having given a show cause notice earlier.

3. The second ground taken by the learned counsel for applicant is that the order is a non-speaking order, we note that the applicant has submitted repeated representations to which no reply had been given by the respondents. In the impugned order dated 3/8/95, no reasons whatsoever have been given by the respondents to justify the cancellation of the earlier promotion order given to the applicant and his subsequent reversion.

4. Shri S.P.Saxena, learned counsel has further submitted that apart from the procedural lapses and irregularities in the impugned order, even on merits, the applicant is entitled for

being continued on the promoted post and has submitted that the later cancellation of the promotion resulting in reversion is not at all

justified or in accordance with law. He has prayed that he may, therefore, be given an opportunity to bring out the relevant facts and provisions of law he relies upon so that the respondents may re-consider the matter, giving him all consequential benefits in case the aforesaid reversion order is found illegal by them. He has submitted that he may, therefore, be permitted to make a self-contained representation to the respondents with directions to respondents to consider the same in a time bound manner.

5. In the facts and circumstances of the case, having considered the submissions by learned counsel for the parties, and the relevant facts in this case, the OA is disposed of with following directions:-

The applicant may submit a detail, self-contained representation within three weeks from the date of receipt of a copy of this order to respondent no.2, i.e. Commander Works Engineer, Pune. Thereafter, the respondents shall consider the representation and pass a speaking order on each of the points raised by the applicant in that representation, with reference to the provisions of relevant Rules and instructions they rely upon. They shall take an appropriate

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decision in the matter, if need be, to set aside the earlier order of reversion, dated 3/8/95. This shall be done within three months from the date of receipt of the representation from the applicant, with intimation to him. No order as to costs.

  
(SMT. SHANTA SHASTRY)  
MEMBER(A)

abp

  
(SMT. LAKSHMI SWAMINATHAN)  
VICE CHAIRMAN