

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 1102.96

TUESDAY the 5th day of MARCH 2002

CORAM: Hon'ble Shri Gopal Singh, Member (J)

Hon'ble Shri S.L.Jain, Member (J)

M.N. Vanesa
Headmaster,
Government High School,
Nani Daman

...Applicant.

By Advocate Shri K.R. Yelwe

V/s

1. Union of India through
The Administrator
U.T. of Daman and Diu,
Secretariat, Moti Daman.
2. Development Commissioner
UT of Daman and Diu,
Secretariat, Moti Daman.
3. Collector,
U.T. of Daman and Diu
Collectorate Moti Daman.
4. Collector,
U.T. of Daman and Diu,
Collectorate, Diu.
5. The Collector
Collectorate, Bhuj, Kutch,
Government of Gujarat.
6. The President,
District Panchayat,
Department of Rural
Education, Moti Daman.
7. The Dy. Director
Jawahar Navodaya Vidhyalay
Samiti, 78,
Major Colony, Kothrud, Poona.
8. The Director,
Navodaya Vidhayalay Samiti,
1/6, Siti fort,
Institutional Area, Kelgaon
Road, New Delhi.
9. Shri M.C. Patel,
Head Master,
Govt. High School,
Zari, Moti Daman.

...Respondents.

By Advocate Shri R.R. Shetty for Shri R.K. Shetty
for Respondent No.1 to 4 and 6 to 8.



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ORDER (ORAL)

{Per Gopal Singh, Member (A)}

This is an application under Section 19 of the Administrative Tribunals Act 1985. Applicant, M.N. Venesa has prayed to quash the promotion order dated 4.10.1993 of respondent No.9 and for a direction to the respondents to initiate disciplinary proceedings against respondent No.9 in terms of CCS (CCA) Rules 1965.

2. The applicant's case is that he was appointed as Higher Secondary Teacher on regular basis with effect from 9.5.1978 at the Government Higher Secondary School, Diu. He was further promoted as Middle School Head Master in the year 1989 on adhoc basis. Presently he is holding the post of Head Master of the Government High School. The grievance of the applicant is that one Shri M.C.Patel who was earlier sent on deputation to Navodaya Vidyalaya Daman had indulged in some mis-conduct and for that reason he was repatriated to the parent department. Though Shri Patel is undoubtedly senior to the applicant, the applicant's contention is that inspite of fact finding enquiry against Shri Patel, the respondent did not proceed against him and under CCS(CCA) ^{Rules, but -} 1965 he has been promoted as Head Master. It is also the contention that in case Shri Patel is not promoted, the applicant become senior to Shri Patel. Hence this application.

3. In the counter, the contentions of the applicant have been denied by the respondents. It is stated by the learned counsel or the respondents that though Shri Patel had indulged in some mis-conduct while on deputation to Navodaya Vidyalaya, his

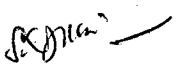
Gopal Singh

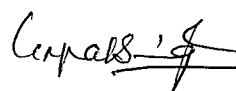
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parent department to which he was repatriated did not consider it proper to proceed against him for the mis-conduct indulged in deputation organisation. It has, therefore, been submitted by the respondents that Shri Patel being senior to the applicant, the applicant should not have grievance against Shri Patel.

4. We have heard the learned counsel for the parties and perused the records.

5. There is no doubt that Shri Patel is senior to the applicant. Shri Patel had indulged in some mis-conduct while on deputation to Navodaya Vidyalaya as seen from the enquiry report placed at Exhibit A - 1 for the mis-conduct indulged by Shri Patel in Navodaya Vidyalaya. It was considered proper to repatriate him to the parent department and he has been repatriated. Thereafter, after a preliminary enquiry, the complaint was found to be anonymous and pseudonymous. Accordingly the respondents department gave promotion to the next higher post as per the seniority. We see no infirmity in the action of the respondents department in promoting Shri Patel as Head Master, Government School. We also find that the applicant being junior to Shri Patel cannot agitate against the promotion of Shri Patel. Thus this application is devoid of any merit and is liable to be dismissed. This application is also barred by time and can be dismissed on that ground also. The OA is dismissed accordingly. No order as to costs.


(S.L.Jain)
Member (J)


(Gopal Singh)
Member (A)