

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 529/96

DATE OF DECISION: 6/12/2000

Shri D.K.Meel

Applicant.

Shri Suresh Kumar

Advocate for
Applicant.

Versus

Union of India & 3 Ors.

Respondents.

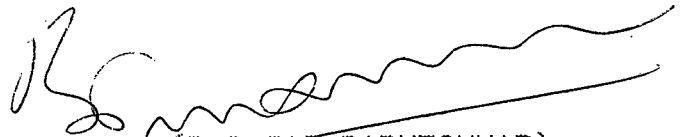
Shri M.I.Sethna - R 1 to 3
Shri G.S.Walia - R 4.

Advocate for
Respondents.

CORAM:

Hon'ble Shri B.S.Jai Parmeshwar, Member(J)
Hon'ble Smt. Shanta Shastry, Member(A)

1. To be referred to the Reporter or not?
2. Whether it needs to be circulated to other Benches of the Tribunal?
3. Library.


(B.S. JAI PARMESHWAR)
MEMBER(J)

abp

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:529/96
DATED THE 6th DAY OF DEC. 2000

CORAM:HON'BLE SHRI B.S.JAI PARMESHWAR, MEMBER(J)
HON'BLE SMT.SHANTA SHASTRY, MEMBER(A)

D.K.Singh Meel,
Director (Mechanical),
Lighthouses & Lightships under
the Ministry of Surface Transport,
Deptt. of Lighthouses & Lightships,
having its office at Deep Bhawan,
Ghatkopar, Mumbai.

... Applicant

By Advocate Shri Suresh Kumar

V/s.

1. Union of India,
Through the Secretary,
Ministry of Surface Transport,
Transport Bhavan,
Parliament Street,
New Delhi - 110 001.

2. Secretary,
Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi - 110 011.

3. Secretary,
Department of Personnel &
Administrative Reforms
New Delhi.

4. M.K.Rahman,
Director(R),
Training Centre,
Department of Lighthouses & Lightships,
Deep Bhawan, D-372/2
Taratola Rd, Calcutta-88.

... Respondents .

By Advocate Shri M.I.Sethna for R-1 to 3.
Shri G.S.Walia for R-4.



...2.

:2:
(ORAL) (ORDER)

Per Shri B.S.Jai Parmeshwar, Member(J)

Heard Shri Suresh Kumar, learned counsel for applicant, Shri M.I.Sethna, learned standing counsel for respondents 1 to 3 and Shri G.S.Walia, learned counsel for respondent No.4.

2. Since June 1990, the applicant has been working on the post of Director(Mechanical) in the Department of Lighthouses and Lightships under the respondent No.1.

3. His grievance is that respondent no.1 has not provided a promotional avenue for the said post of Director.

4. He is an aspirant for the post of Dy.Director General - which post has to be filled up in accordance with the Recruitment Rules of 1990.

5. Feeling aggrieved with the manner of filling up the post of Dy.Director General and not providing any promotional avenue to him, the applicant earlier approached Calcutta Bench of this Tribunal in OA-221/94. The said OA was decided on 28/3/96. The observations made by the Calcutta Bench of this Tribunal in para 6 are reproduced:-

6. We have carefully perused the contents of the Recruitment Rules and we find that while for the post of Dy.Director General, a mechanical engineer cannot be considered for the post of Director General, mechanical engineer having been made eligible as per the said Recruitment Rules. In our view such a situation seems to be anomalous. We have also noted that Government has taken their stand that work load does not justify the creation of a post of Dy.Director General (Mechanical), nor any conversion of existing post of Dy.Director General (Civil) to Dy. Director General (Mechanical) is found justified. Government in their own reply have stated that the matter was to be reviewed after a period of five years. From this averment made, it appears to us that the Government was conscious about this apparent anomaly. We note ...3.

DL

:3:

that Recruitment Rules were framed in 1990 sometime in August and a period of five years have been already over. Mr. Das was not able to throw any light as to whether any process of review of Recruitment Rules has already been started by the Government or, if any, when it is likely to start. This being the position, we are of the view that only order that can be passed in this case is to give an appropriate direction to consider the revision of the Recruitment Rules.

6. The respondents attempted to fill up the post of Dy. Director General.

7. Feeling aggrieved the applicant has filed this OA for the following reliefs:-

8(a) To hold and declare that the purported action of the Respondents in effecting the promotion without amending the rules as directed by the Calcutta Bench of this Hon'ble Tribunal is illegal and bad in law.

(b) Respondents be directed to effect the promotion to the grade of Dy. Director General only after the rules are amended.

(c) Respondents be directed by a mandatory order not to effect any promotion unless they comply with the judgment of the Calcutta Bench of this Hon'ble Tribunal and review the Recruitment Rules as directed by the said Bench.

(d) In the alternative to prayers (a), (b) and (c) above, pending the hearing and final disposal of the application and in view of the judgement of the Calcutta Bench, the name of the applicant should also be considered alongwith other persons.

...4.



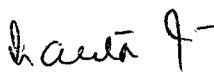
8. The Respondents 1 to 3 have filed a reply.


9. At the time of hearing, the learned counsel for the applicant fairly and rightly submitted that the applicant be given an opportunity to submit a detailed representation to Respondent No.1 and that Respondent No.1 be directed to consider his representation taking due note of the fact that the applicant has been working on the same post for well over a decade.

9. In view of the above, the following directions are given:-

- (a) The applicant may if so advised submit a detailed representation to respondent no.1 making out his grievances and as regards not providing a promotional avenue to the post of Director (Mechanical).
- (b) The applicant shall submit his representation within one month from the date of receipt of a copy of this order.
- (c) On receipt of such representation, the Respondent No.1 shall consider the representation of the applicant sympathetically and in accordance with the rules taking due note of the fact that no promotional avenue has been provided and that the applicant has been on the same post for over 10 years.

10. With the above directions, the OA is disposed of. No orders as to costs.


(SHANTA SHASTRY)
MEMBER(A)


6.12.2000
(B.S. JAI PARMESHWAR)
MEMBER(J)

abp.