

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:486/99

DATE OF DECISION: 11-1-2001

Shri R.V. Shinde Applicant.

Applicant in person. Advocate for  
Applicant.

Versus

Union of India and others Respondents.

Shri R.R. Shetty Advocate for  
Respondents

CORAM

Hon'ble Shri Kuldip Singh, Member (J)

Hon'ble Ms. 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.

*Kuldip Singh*  
(Kuldip Singh)  
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO: 486/99

the 11<sup>th</sup> day of JANUARY 2001

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

Hon'ble Ms. Shanta Shastry, Member (A)

R.V. Shinde  
Assistant Director  
Seamen's Employment Office  
Nov Bhavan, Ramjibhai Kamani Marg.,  
Ballard Estate, Mumbai.

...Applicant.

Applicant in person.

V/s

1. Director General of Shipping  
"Jahas Bhavan"  
Walchand Hirachand Marg,  
Mumbai.
2. Principal Officer,  
Mercantile Marine Department  
Old C.G.O. Building,  
2nd floor, Maharshi Karve Road,  
Mumbai.
3. Director  
Seamen's Employment office  
Nov Bhavan,  
Ramjibhai Kamani Marg,  
Ballard Estate, Mumbai.

By Advocate Shri R.R. Shetty.

4. The Shipping Master  
Nov Bhavan.  
Ramjibhai Kamani Marg.  
Ballard Estate, Mumbai.
5. Shri R.M. Elango  
Assistant Shipping Master  
Govt. Shipping Office  
Navbhavan, 10 R.K. Marg.m  
Ballard Estate, Mumbai.
6. Shri Kukul Dutta  
Asstt. Shipping Master/Asstt. Director  
Type II, Block 'B' Flat No. B/18  
Tollygune Central Govt. quarters  
Graham Road, P.S. Jadavpur,  
Calcutta.
7. Shri Krishna Kumar T.K.  
Asstt. Shipping Master,  
Govt. Shipping Office  
Navbhavan, 10 R.K. Marg,  
Ballard Estate, Mumbai.

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Shri R. Shivrammaiah  
Asst. Director, S.E.O.  
Navbhavan, 10 R.K. Marg.,  
Mumbai.

...Respondents.

O R D E R

{Per Shri Kuldip Singh, Member (J)}

The applicant being aggrieved of his reversion from the post of Assistant Director to the post of office Superintendent had filed this OA. His order of reversion is Exhibit A vide which he has been allowed to continue as Asstt. Director upto 17.3.1999 or till the nominee of the UPBC joins the post whichever is earlier.

2. However on going through the prayer clause in para 8 of the OA; we notice that the real grievance of the applicant ~~and~~ against the recruitment of 4 candidates for the post of Asstt. Directors/ Asstt. Shipping Masters, which the applicant alleges to have been made against the rules.

3. The applicant thereafter amended his OA. From the amended OA we further notice that <sup>he prays for</sup> out of 4 candidates 2 candidates should be sent back and respondent be directed to allow the applicant to continue as Asstt. Director beyond 17.3.1999.

4. However short matrix of the facts is that as per relevant recruitment rules, recruitment to the post of Asstt. Director / Asstt. Shipping Master can be made by two modes. i.e. 50 % by promotion and 50% by direct recruitment.

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5. The applicant being in the feeder cadre was given adhoc promotion to the post in question. But he was not having the requisite experience, since Superintendents in Shipping and Seamen's Employment office with regular 3 years service in the grade (Pay scale Rs. 1600 - 2660) failing which 7 years confirmed regular service as Superintendent and Deputy Superintenden / Accountant / Head Clerk (Pay scale of Rs. 1400 - 2300) were eligible.

6. Admittedly the applicant was not fulfilling the eligibility condition on the crucial date.

7. Respondent department was feeling acute shortage of man power at the level of Asstt. Director. The department vide letter dated 21.3.1997 (Exhibit C at paper book page 434 -45) explaining their need in detail, sought the approval of UPSC to fill up the vacancies by means of direct recruitment.

8. It seems, after exchange of various letters UPSC advertised the posts and finally the respondent No. 5 to 8 were selected.

9. The applicant has now challenged their selection and appointment. The applicant alleges while seeking the approval of UPSC for direct recruitment the respondents had not placed proper facts before UPSC. The respondents did not inform the UPSC that

the applicant was working on adhoc basis continuously for 5 years. He further says that respondent should not have allowed continuous adhoc posting for such a long period. They could have regularised applicant by holding DPC. The respondent cannot say that the applicant has no right to hold the post.

10. The respondents who are contesting the OA admitted the rule position and agreed that first mode of recruitment is by way of promotion, but submitted that applicant did not psses the requisite qualification of holding the post in the feeder cadre hence he was not eligible for promotion.

11. The respondents further submitted that respondent 5 to 8 have been appointed by the UPSC after approving the request of department for ~~filling~~ filling the post by direct recruitment. The UPSC had considered all the pros and cons and approved to recruit respondent No. 5 to 8 by direct recruitment after examining the case from all angles.

12. We have heard the applicant who appeared in person and Shri R.R. Shetty counsel for respondent and have gone through the record.

13. Interestingly, we notice from para 5(c) of the OA where the applicant himself stated " It is admitted that the applicant has been officiating in the post of Asstt. Director with effect from 18.3.1994 and it is the fact that he is running short of 10 months regular service as Office Superintendent to confirm the grade" (Emphasis supplied).

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14. This assertion of the applicant itself supports the plea of respondent that applicant at the crucial time was not eligible to be considered for regular appointment as Asstt. Director.

15. The need for filling up the post is well explained even in the letter dated 21.3.1997 whereby the respondent had sought the approval of UPSC to resort to direct recruitment. Hence we do not find any ground of malafide etc. to interfere in this OA. Rather we are satisfied that OA has no merits and same is liable to be dismissed. As such OA is dismissed. No costs.

*Shanta f*

(Ms. Shanta Shastry)  
Member (A)

*Kuldip Singh*

(Kuldip Singh)  
Member (J)

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