

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO:339/99

Dated, this Monday the 6th of December 1999.

Shri.V.A.Sali Applicant.

Shri.S.S.Karkera Advocate for the  
Applicant.

VERSUS


Union of India & 2 Ors. Respondents.

Shri R.R.Shetty Advocate for the  
Respondents.

CORAM: HON'BLE SHRI JUSTICE R.G.VAIDYANATHA, VICE CHAIRMAN.  
HON'BLE SHRI B.N.BAHADUR, MEMBER(A)

- (i) To be referred to the Reporter or not?  
(ii) Whether it needs to be circulated other Benches  
of the Tribunal?  
(iii) Library?

} NO

  
(R.G.VAIDYANATHA)  
VICE CHAIRMAN

abp

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION NO:339/99.  
DATED THE 6TH DAY OF DECEMBER, 99.

CORAM:HON'BLE SHRI JUSTICE R.G.VAIDYANATHA, VICE CHAIRMAN  
HON'BLE SHRI B.N.BAHADUR, MEMBER(A)

Shri V.A.Sali,  
At present working as,  
Tradesman-D,  
Residing at, Dashrath Villa,  
D-31, Ram Baugh Lane No.4,  
Kalyan (West),  
Dist.Thane.Pin.421 301.  
By Advocate Shri S.S.Karkera

...Applicant

v/s.

1. The Union of India,  
Through the Secretary,  
Department of Atomic Energy,  
Old Yatch Club, Colaba,  
Mumbai-400 006.
2. The Head Personnel Division,  
B.A.R.C., MUMBAI - 400 085.
3. The Asst.Personal Officer,  
Bhabha Atomic Research Centre,  
Laser and Plasma Technology,  
Division Trombay,  
Mumbai - 400 085.  
By Advocate Shri R.R.Shetty.

... Respondents.

(ORDER) (ORAL)

Per Shri R.G.Vaidyanatha, Vice Chairman.

This is an application filed by applicant seeking a direction to respondents to promote him and for other consequential reliefs. Respondents have filed reply opposing the application. We have heard both counsels regarding admission. The applicant is now working as Tradesman 'D' in the BARC, Mumbai. He is now due for promotion to Tradesman 'E' but he is not promoted on the ground that he is involved in a Criminal case and a criminal case is pending. The applicant has therefore approached this Tribunal for direction regarding promotion to respondents.

...2.



2. The respondents have pleaded that applicant's case for promotion was considered but the finding of DPC is kept in sealed cover in view of the applicant being chargesheeted under Section-498-A, 306 and 114 of the IPC in S.P. CASE NO,728 OF 1989.

3. As per the sealed cover procedure rules of 1992, when chargesheet is pending in a criminal case, the official cannot be promoted and the recommendation regarding his promotion would be kept in sealed cover. Learned counsel for applicant contended that in view of para-4 of the said circular, the Competent Authority has to review the case once in six months and since criminal case is pending since long time, ~~and~~ the respondents should consider the case of the applicant for promotion. On the other hand counsel for respondents submitted that the case of the applicant is being reviewed from time to time and he cannot be promoted due to serious charges for which he is facing <sup>trial</sup> in the criminal case.

4. The learned counsel for respondents placed before us the concerned file which shows that the Competent Authority is conscious of the contents <sup>of</sup> ~~mentioned~~ in para-4 of 1992 circular and has applied his mind and decided that due to the serious charge the applicant is facing in the criminal case, he cannot be promoted during the pendency of the criminal case. But the point made by applicant here is that Competent Authority should review the case once in six months and find out if applicant can be given promotion on adhoc basis under the instructions mentioned in para-5 of 1992 circular. Even in future, the Competent Authority should review the case of the applicant once in six

...3.



months notwithstanding the pendency of the criminal case. The Competent Authority should apply its mind to various circumstances mentioned in para-4 & 5 of 1992 circular and pass a conscious speaking order after application of mind on the grounds on which the applicant can be granted or not granted adhoc promotion. We cannot interfere at this stage except for giving a direction.

5. In the result, the application is disposed of at admission stage subject to above observations. Liberty also to applicant to make a representation from time to time depending upon the progress of the criminal case,

6. MP-279/99 does not survive for consideration since we are disposing of the OA itself. No costs.

*B.N. Bahadur*

(B.N. BAHADUR)  
MEMBER (A)

abp

*R.G. Vaidyanatha*  
(R.G. VAIDYANATHA)  
VICE CHAIRMAN