

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 23/99

Date of Decision: 22.3.1999

Shri J.L. Tandel Applicant.

Shri A.I. Bhatkar alongwith
Shri K.R. Melwe. Advocate for
Applicant.

Versus

The Secretary of the Govt. of India Respondent(s)
and others.

Shri V.S. Masurkar for respondent No.1 and 2 Advocate for
Shri S.P. Inamdar for respondent No.3 Respondent(s)

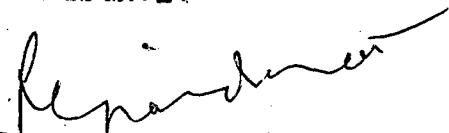
CORAM:

Hon'ble Shri. Justice R.G. Vaidyanatha, Vice Chairman.

Hon'ble Shri. D.S. Baweja, Member (A)

(1) To be referred to the Reporter or not? No

(2) Whether it needs to be circulated to other Benches of the Tribunal?


(R.G. Vaidyanatha)
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, MUMBAI:1

Original Application No. 23/99

Monday the 22nd day of March 1999.

CORAM : Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble Shri D.S.Baweja, Member (A)

J.L. Tandel
residing at Block B/2
Type 4, Behind New
Civil Court,
Silvassa.

... Applicant.

By Advocate Shri A.I. Bhatkar alongwith Shri K.R. Yelwe.

V/s.

1. The Secretary of the
Government of India
Ministry of Home Affairs
South Block,
New Delhi.

2. Administrator of U.T of
Daman and Diu, Dadra
Nagar Haveli, Silvassa.

3. Shri Dilip Gangadaran,
Dy. Engineer, (Civil)
Civil Division No.1
(Bldg.) I, PWD
Silvassa. ... Respondents.

By Advocate Shri V.S.Masurkar for respondent No.1 and 2
Shri S.P. Inamdar for respondent No.3.

O R D E R (ORAL)

(Per Shri Justice R.G.Vaidyanatha, Vice Chairman)

This is an application filed by the applicant challenging the legality of the order dated 4.1.1999 under which respondent No.3, Shri Dilip Gangadaran had been given adhoc promotion as Deputy Engineer (Civil). Official respondent No.1 and 2 and the private respondent No.3 have filed written reply opposing the application. We have heard the learned counsel for both sides regarding admission and grant of interim relief. Since the point involved is short, we are disposing of the O.A. at the admission stage itself.

2. The applicant is a Diploma holder and in the seniority list he is at serial No.16. It is stated that persons at serial No.1 to 15 have already been promoted and therefore as on today the applicant is number 1 in the seniority list of Junior Engineers. The applicant's grievance is that he being senior most, he is entitled to be considered for the post of Deputy Engineer and respondent No.3 who is at serial No.41 should not have been considered for promotion to the post of Deputy Engineer. That is how the applicant has challenged the order of adhoc promotion of respondent No.3.

3. ~~The official~~ respondent No.1 and 2 ~~have taken~~ a stand that the cadre consists of Diploma Engineers and Degree Engineers. For the next promotion, the Degree Engineer's will have to put in three years regular service and Diploma Engineers will have to put in eight years of regular service. The respondents have considered the applicant and three other ~~other~~ Diploma holders and respondent No.3 as Degree holder for the purpose of ~~considering the~~ case for promotion to the post of Deputy Engineer. The D.P.C. has considered five candidates including the applicant and respondent No.3 and selected respondent No.3 for adhoc promotion. That is how respondent No.3 has been promoted. Respondent No.3 has filed reply justifying the promotion to the post of Deputy Engineer. He has already filed O.A. 529/94 challenging the seniority list and also the recruitment rules.

4. After hearing both sides, we find that the short point for consideration is whether the promotion of respondent No.3 is illegal and liable to be quashed.

5. The learned counsel for the official respondents placed before us the DPC proceedings, where four Diploma holders including the applicant and one Degree holder, respondent No.3, have been considered and respondent No.3 came to be selected on adhoc promotion as Deputy Engineer on the basis of grading given by D.P.C.

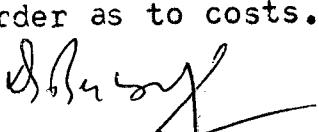
The applicant's case is that respondent No.3 is nowhere in the zone of consideration and therefore he should not have been considered for adhoc promotion as Deputy Engineer. Respondent No.3 states that he had already filed O.A. 529/94 challenging that the respondents have violated the recruitment rules. The official respondents contended that the administration has considered the Diploma holders and the Degree holders as per date of qualifying service and that is how respondent No.3 has been considered in the present D.P.C.

6. As per the recruitment rules the Junior Engineers who are entitled to be considered for adhoc promotion to the post of Deputy Engineer, as mentioned in column No.11 Degree holders with 3 years regular service and Diploma holders with 8 years regular service, but the rules do not provide any preference for Degree holders or provision for quota for Degree holders and Diploma holders. There is no quota for Degree holders and Diploma holders. Respondent No.3 states that in his O.A. 529/94 he is challenging the provisions of column No.11 of schedule to the recruitment rules. At this stage we do not want to make any observations on this point.

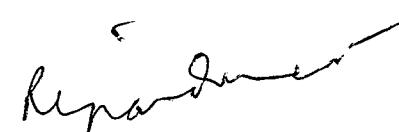
7. We find that impugned order dated 4.1.1999 itself says that this is an adhoc promotion for six months. Therefore automatically adhoc promotion comes to an end after six months, unless it is renewed by fresh order. In our view administration has to strictly enforce the recruitment rules 1987 and then consider the case of candidates who come within the zone of consideration on the basis of seniority list and then consider the suitable candidate for next adhoc or regular promotion. There is nothing to show that administration had amended the recruitment rules or issued any orders for relaxing the rules. Unless there is amendment in the recruitment rules, the administration is bound to follow the recruitment rules 1987 and then fill up the post of Deputy Engineer either on adhoc or regular basis after the expiry of adhoc promotion of respondent No.3. With this view we do not want to express any opinion on the contention of respondent No.3 challenging the seniority list and recruitment rules. Those contentions will be considered in O.A. 529/94. In our view after expiry of the period of adhoc promotion of respondent No.3, whether he should be continued in adhoc promotion or regular promotion, the respondents should strictly go on the basis of 1987 recruitment rules.

8. In the result the O.A. is disposed of at the admission stage with a direction to the official respondents that as and when they consider the case for promotion either on adhoc or regular promotion after the expiry of adhoc promotion of respondent No.3, they should strictly consider the case on adhoc or regular promotion on the basis of 1987 recruitment rules.

No order as to costs.


(D.S. Baweja)
Member (A)

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(R.G. Vaidyanatha)
Vice Chairman