

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO: 1077/99

DATE OF DECISION: 9/6/2000

Mr.S.G.Gaikwad . Applicant.

Shri S.P.Saxena

-----Advocate for  
Applicant.

Versus

Union of India & Anr

-----Respondents.

Shri B.E.Avhad

-----Advocate for  
Respondents.

CORAM:

Hon'ble Shri B.N.Bahadur, Member(A).

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

1. To be referred to the Reporter or not?

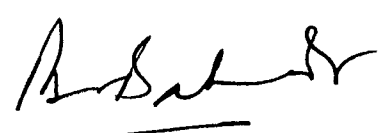
*Yes*

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

*No*

3. Library.

*No*

  
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(B.N. BAHADUR)  
MEMBER(A)

abp

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION: 1077/99  
DATED THE \_9TH\_ DAY OF JUNE ,2000

CORAM: HON'BLE SHRI B.N. BAHADUR, MEMBER(A)  
HON'BLE SHRI S.L. JAIN, MEMBER(J)

Sudhir Ganpat Gaikwad,  
38, Aundh Road, Kirkee,  
Pune - 411 003.

... Applicant.

By Advocate Shri S.P. Saxena

V/s.

1. The Director,  
The National Institute of Virology,  
20-A, Ambedkar Road,  
Pune - 411 001.

2. The Director General,  
Council of Scientific &  
Industrial Research,  
Rafi Marg,  
New Delhi-110 011.

... Respondents.

By Advocate Shri B.E. Avhad

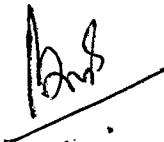
(ORAL) (ORDER)

Per Shri B.N. Bahadur, Member(A).

This is an application made by Shri Sudhir B Gaikwad seeking the relief, in substance, that the appointment to the post of Mali in Respondents Organisation should be done strictly according to merit, against Reserved Post and that he has been selected in the said post. Reply has been filed by the Respondents. We have heard Learned Counsels on both sides today.

2. The facts in this case are in a short compass, in that the main defence of the Respondents is that the present Applicant had stated in the attestation form that he filled up at the

...2.



time of selection procedure that no Police case or any criminal case was pending against him and hence has not disclosed honestly all the facts as he was expected to. A point has also been raised that the post is not a Reserved Post.

3. On the point relating to the post being reserved or otherwise, Learned Counsel for Applicant, Shri S.P.Saxena contended, with good reason, that even if the post is unreserved, the Candidates who belongs to Scheduled Caste has a right to compete. This is unexceptionable. The right of the Candidate exists even if he belongs to Scheduled Caste, and hence this right is established, notwithstanding the prayer clause where specific prayer is for a declaration that the post is Reserved.

4. Now, having gone past this question, the point that remains here is whether the wrongful declaration by Applicant of not by applicant mentioning about the criminal case pending is enough reason to bypass the claim of the applicant. In this another factor has been introduced by the Learned Counsel for Applicant during arguments. Learned Counsel Shri Saxena argues that even though non declaration is factually correct, it must be appreciated that the Applicant had nevertheless informed the respondents of his acquittal in the criminal case, soon after the judgement was pronounced. This was done in August, 99, much before the Respondents took a decision for the appointment of Shri Shitole. This is an important stand taken by the Learned Counsel.

5. The issues relevant in this case are covered fully by the judgement of a Bench of this Tribunal (to which one of us is a

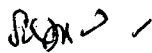
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party) delivered on 13/8/99 in OA No.919/95. The ratio in that case is fully applicable to the issues in the present case before us. Hence the reasoning is not being repeated in detail.

6. This Tribunal has had an occasion to deal with similar case/s on the same issue earlier and it has been held that once a false declaration has been made by the Candidate regarding pendency of a criminal case, this will be enough reason for the respondents to by-pass the Candidate or even terminate him. The fact that he has been acquitted or even granting that a false case has been made out (as indeed alleged by Learned Counsel for Applicant in the present case) it has been held that this will not absolve the Applicant from the Original act of mis-demeanour in providing false information to his employer to be. The fact of his acquittal does not help the Applicant in any manner.

7. In the facts and circumstances of the case, no ground is therefore made out that will convince us that there is any scope for interference. In consequence, this Application is hereby dismissed, at the Admission Stage, with no orders as to costs. Interim order made in this application are hereby withdrawn.

  
(S.L.JAIN)  
MEMBER(J)

  
(B.N.BAHADUR)  
MEMBER(A)

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