

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Dated this Tuesday the 10th day of June, 2003

Coram: Hon'ble Mr.V.K.Majotra - Member (A)  
Hon'ble Mr.Shankar Raju - Member (J)

O.A.980 of 1999

Indrajit Harihar Jena,  
Beldar,  
C/o CPWD, Mumbai Central Division,  
Mumbai Central Sub Division (II),  
Bhandup, Enquiry Office,  
Bhandup (East),  
R/o Room No.592,  
CGHS Colony, Sector - C,  
Bhandup (East), Mumbai 400 042.  
(By Advocate Shri S.S.Karkera) - Applicant

Versus

1. Union of India,  
through the Director General of Works,  
C.P.W.D., Nirman Bhavan,  
New Delhi - 110 011.
2. The Chief Engineer (WZ),  
C.G.O. Annexe Building, 14th Floor,  
101, M.K.Road, Mumbai 400 020.
3. The Superintendent Engineer (C),  
Co-ordination Circle,  
West Zone, CPWD New C.G.O. Building,  
3rd Floor, 48, New Marine Lines,  
Mumbai 400 020.
4. The Superintending Engineer,  
Mumbai Circle - II CPWD,  
Central Government Quarters,  
Ghatkopar (West),  
Mumbai 400 086.
5. The Executive Engineer,  
C.P.W.D. Mumbai Central Division,  
VIII, S.M.Flat Building No.24,  
Antophill Mumbai 400 037.
6. The Executive Engineer,  
C.P.W.D.,  
Mumbai Central Division,  
Mumbai Central Sub Division,  
Bhandup (East), Mumbai 400 086.  
(By Advocate Shri V.S.Masurkar) - Respondents

O R D E R (ORAL)

By Hon'ble Mr.Shankar Raju - Member (J)

The Applicant seeks his promotion as Plumber w.e.f.

1.5.1996.

2. The Applicant was engaged on Muster Roll as Beldar in 1982 and was regularised as Beldar by an order dated 8.2.1989. Subsequently the aforesaid order was withdrawn as the regularisation had taken place without sanctioned post vide order dated 19.4.1989 and accordingly the Applicant was regularised w.e.f. 21.5.1992.

3. Applicant's representation for appearing in the Trade Test for the post of Plumber was forwarded as well as his grievance regarding promotion.

4. Meanwhile under the Recruitment Rules which came into force in 1996 certain persons have been appointed as Plumbers. Applicant represented but without any avail. During this interregnum, as per the Arbitration Award dated 31.1.1988 vide order dated 26.6.1997 issued by the Directorate General of Works, Assistant Plumbers is being merged with the main category of Plumbers and accordingly Recruitment Rules for the post of Plumbers was promulgated on 7.4.1999.

5. Having regard to the aforesaid backdrop, learned counsel for the the Applicant stated that once the merger had taken place Applicant is deemed to be Assistant Plumber and could be considered having rendered assistance as Beldar to the Assistant Plumbers under the old Recruitment Rules and particularly having regard to the fact that availability of 60 posts has not been denied to the post of Plumbers.

6. According to him the restructuring would relate back to the Award. It is further contended by the learned counsel that denial of promotion to the Applicant w.e.f. 1.1.1996 is arbitrary and violative of Articles 14 & 16 of the Constitution of India.

7. On the other hand respondents counsel contends that as per old Recruitment Rules which were in vogue till 1999 for promotion as Plumber for a Beldar but next promotional post as Assistant Plumber and for the post of Plumber but feeder category is Assistant Plumber as the Applicant was regularised as Beldar w.e.f. 1.5.1996. He is not eligible for the promotion as Assistant Plumber having not rendered five years' service. As such he was not promoted. In so far as the new Recruitment Rules <sup>are</sup> concerned, it is contended that the applicant is to complete 10 years' service as Beldar and having regularised in 1992 on availability of posts and on his eligibility he would be considered as per rules.

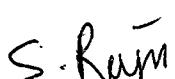
8. We have carefully considered the rival contentions of the parties and perused all the materials on record. In order to be promoted under the Recruitment Rules of 1996 a Beldar not being a feeder cadre of Plumber is not eligible. However, the Assistant Plumber is to be promoted as Plumber and the necessary qualifications in the Recruitment Rules is five years' service as Assistant Plumber. As the Applicant was not even an Assistant

Plumber and was only Beldar he was eligible to be promoted as Assistant Plumber as such he cannot jump over the intermediate promotional avenue to become a Plumber.

9. In so far as new Recruitment Rules are concerned it is contended that the restructuring and merger of different categories with the main category had taken w.e.f. 1997 and accordingly the new Recruitment Rules had come into force. As per the new Recruitment Rules, Applicant has to render service as Beldar in the feeder category and would be considered in accordance with the eligibility rules and availability of vacancies.

10. In the light of the above as the Applicant was not eligible to be promoted under old Recruitment Rules but as per the new Recruitment Rules has attained qualifications and had rendered 10 years' service as Beldar computed from 1992, ends of justice would be met if the present OA is disposed of with a direction to the Respondents to consider the Applicant for promotion as Plumber if he is eligible in all respects and availability of posts. Ordered accordingly.

11. Parties shall bear their own costs.

  
(Shankar Raju)  
Member (J)

  
(V.K. Majotra)  
Member (A)