

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 409 of 2000.

Dated this Friday, the 8th day of December, 2000.

Hamidkhan Mahamoodkhan Pathan, Applicant.

Shri S. P. Kulkarni, Advocate for the
applicant.

VERSUS

Union of India & Others, Respondents.

Shri V. S. Masurkar, Advocate for
Respondents.

CORAM : Hon'ble Shri B.S. Jai Parameshwar, Member (J).

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

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

Jai
(B. S. JAI PARAMESHWAR)
MEMBER (J)

OS*

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Hamidkhan Mahamoodkhan Pathan,
Mohamoodkhan Pathan,
Postal Assistant, Ozar Township
Post Office, Nashik Postal Divn.,
Nashik - 422 007.

...

Applicant.

(By Advocate Shri S. P. Kulkarni)

VERSUS

1. Union of India through
The Chief Postmaster General,
Maharashtra Circle, Old G.P.O. Bldg.,
2nd floor, Fort, At P.O. Mumbai-1.

2. Senior Superintendent of Post
Offices, Nashik Postal Division,
At P.O., Nashik 422 001.

3. Member (Posts),
Postal Services Board,
Department of Posts,
Ministry of Communications,
Govt. of India, Sanchar Bhavan
At P.O. New Delhi - 110 001
(20, Asoka Road), New Delhi-1.

4. The Director General (Posts),
Department of Posts,
Min. of Communication,
Dak Bhawan, Parliament Street,
New Delhi - 110 001.

... Respondents.

(By Advocate Shri V.S. Masurkar)

OPEN COURT ORDER

PER : Shri B.S. Jai Parameshwar, Member (J).

Heard Shri S. P. Kulkarni, the Learned Counsel for the
applicant and Shri V. S. Masurkar, the Learned Standing Counsel
for the Respondents.



2. While the applicant was working as a Postal Assistant at Oza Township Post Office, he was issued with a show cause notice dated 15.05.2000 stating that he was allotted to Nashik Division and his promotion to the cadre of Personal Assistant was subsequently found to be erroneous. Thus, they directed the applicant to explain to the show cause notice. The applicant has submitted his explanation to the show cause notice by his letter dated 15.06.2000, Annexure-N, Page 53 to the O.A.

3. The applicant apprehending that he will be reverted, has filed this O.A. for the following reliefs :

"8.a) This Hon'ble Tribunal be pleased to call for the records of Examination/Tabulation/vacancy position/Mark sheets to ascertain the real position and pass Order (s) in the interest of justice.

b) Hold and declare impending order of cancellation of promotion (after promotion and 3 years working in promotional post) as arbitrary and autocratic.

c) Hold and declare that belated correction in the results of L.G.O. Examination in respect of applicant alone as arbitrary and autocratic.

d) Quash and set aside show cause letter dated 15.05.2000, being arbitrary.

e) Direct Respondents to give personal hearing to the applicant before passing final order.

f) Direct Respondents not to revert the applicant till final outcome of the Original Application.

g) Direct Respondents not to reduce the Pay and Allowance. (Last drawn in P.A. Cadre).

h) Direct Respondents not to recover alleged (overdrawn pay since 04.07.97) consequent to reversion.


i) Direct Respondents to take up Case with Competent Authority for relaxation of rules regularization of promotion of applicant."



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4. Respondents have filed the reply stating that on verification of the records they have formed an opinion that the promotion of the applicant to the post of P.A. was erroneous and he was included in the panel as a surplus candidate and that their action is in accordance with rules.
5. At the time of hearing, the Learned Counsel for the applicant relied upon the decision of the Hon'ble Supreme Court in the case of Shrawan Kumar Jha & Others V/s. State of Bihar & Others reported in 1991 SCC (L&S) 1078.
6. As the applicant has already submitted his explanation to the show cause notice, the competent authority shall take a decision on the same in accordance with rules as expeditiously as possible. The competent authority before taking a decision shall give an opportunity of personal hearing to the applicant.
7. With the above observations the O.A. is disposed with no order as to costs. The interim relief granted on 19.06.2000 stands vacated.


(Smt. SHANTA SHASTRY)
MEMBER (A).


B.S. JAI PARAMESHWAR
MEMBER (J).