

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO: 346/2000

28 02  
DATE OF DECISION: ~~02/02/2001~~ / 28/02/2001

Mrs.N.G.Shaikh

Applicant

Shri G.S.Walia

-----Advocate for  
Applicant.

Versus

Union of India & 6 Ors.

-----Respondents.

Shri V.S.Masurkar

-----Advocate for  
Respondents.

Hon'ble Shri Justice Ashok Agarwal, Chairman.  
Hon'ble Smt. Shanta Shastry, Member(A)

1. To be referred to the Reporter or not?
2. Whether it needs to be circulated to other Benches of the Tribunal?
3. Library. ✓

*Shanta Shastry*  
(SHANTA SHASTRY)  
MEMBER(A)

abp

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION NO:346/2000  
DATED THE 28TH DAY OF FEB,2001

CORAM:HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN  
HON'BLE SMT. SHANTA SHASTRY, MEMBER(A)

Mrs.N.G.Shaikh,  
Working as Lab Supdt. Grade II  
Jagjivan Ram Hospital,  
Western Railway,  
Mumbai Central,  
Mumbai - 400 008.

... Applicant

By Advocate Shri G.S.Walia

V/s.

1. Union of India through  
General Manager,  
Western Railway,  
Headquarters Office,  
Churchgate,  
Mumbai - 400 020.

2. Medical Director,  
Jagjivan Ram Hospital,  
Western Railway,  
Mumbai Central,  
Mumbai - 400 008.

3. Shabana N Khan

4. O.P.Lohra

5. M.M.Desai

6. Sudhir Kumar

7. V.A.Thomas

... Respondents

Respondent Nos.3 to 7 are all working  
as Lab Supdt. Grade-I. Respondent No.  
3 to 7 to be served through Respondent  
No.2.

(ORAL) (ORDER)

Per Smt.Shanta Shastry, Member(A)

The reliefs sought in this OA are to quash and set aside  
the orders dated 22/5/2000 empanelling respondents nos. 3 to 7  
for promotion to the post of Lab Superintendent Gr.I and the order  
dated 9/6/2000 promoting R-3 actually and similar orders in  
favour of R-4 to 7. The applicant has prayed to consider her for  
promotion to the Lab Supdt. Gr.I and further to Chief Lab Supdt.

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2. The respondents notified 5 vacancies of Lab Supdt. Gr.I in the payscale of Rs.6500-10500 sometime around 4th March, 1999. Based on the seniority list published on 2/10/97, eligible candidates were considered and the panel was declared on 22/5/2000. Further promotion was granted to R-3. The applicant's name did not appear in the panel. Aggrieved by the same, the applicant has approached this Tribunal.

3. The respondents submit that consequent upon implementation of the report of the Vth Pay Commission, the Railway Board vide their letter dated 17/8/1998 introduced new scales of pay for different posts of Lab employees. Accordingly, the posts of Lab Supdt. Gr.I was shown in the scale of 6500-10500 as a non selection post. Similarly, the post of Chief Lab Supdt. in the scale of Rs.7450-11500 was also classified as a non selection post. The feeder grade for promotion to the post of Lab Supdt. Gr.I is the Lab Supdt. Gr.II in the scale of Rs.5500-9000. A further clarification was issued by Railway Board on 13/7/99 clarifying that the staff having BSc in Chemistry should only be considered for promotions to Gr.II and further higher grades. Those who were not qualified represented against the same. The matter was referred to the Railway Board on 15/9/99. The Board clarified on 25/2/2000 that those who had entered the Lab Supdt. Gr.III in the scale of Rs.5000-8000 with relaxed qualification will not be considered. Since the applicant was promoted on the basis of relaxed qualification, she was not considered for promotion to the post of Lab Supdt. Gr.I though as per the seniority list she was in the zone of consideration. Later on the Railway Board issued a further letter dated 6/7/2000 revising the classification of the posts.

The Lab Supdt. Gr.I post has been clasified as a selection post. The Railway Board instructed that those promoted with relaxation in qualification will be eligible for promotion to the higher grade only after completing a minimum of 5 years in the lower grade. The respondents state that the applicant will now be considered through the process of selection for post of Gr.I subject ot availability of vacancies in future on the basis of revised clarification.

4. The applicant was initially appointed as an Assistant Chemist in 1975 and was promoted to the grade of Lab Supdt. Gr,.III in the then scale of Rs.1400-2300, thereafter she was promoted to Lab Supdt. Gr.II vide order dated 26/5/94 on 1/1/87 w.,e.f. 1/1/84. The applicant possess~~s~~ only qualification of HSC plus two years Diploma in Medical Lab Technology (DMLT). She does not have BSc degree.

5. It is the contention of the learned counsel for the applicant that she was promoted to the grade of Lab Supdt. Gr.III in her own rank. No relaxation in qualification was given to her as the qualifications prescribed for the post then did not include a BSc degree. She was however given relaxation in qualification for the post of Lab Supdt. Gr.II. ¶since the Railway Board insisted that those who had come into the Lab Supdt. Gr.III on the basis of relaxation in qualification were not eligible for further promotion it does not apply in her case and therefore being ¶ senior to Respondent Nos. 3 to 7 she should have been considered for promotion to the Lab Supdt. Gr.I. Also earlier the post of Lab Supdt. Gr.I was a non selection post. Many candidates were earlier promoted to the Gr.I even though they did not possess BSc degree on 3/12/98. The posts are to be

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filled only on the basis of seniority cum suitability. The applicant possesses five years service in the feeder grade and is thus entitled for promotion to Gr.I.

6. We have heard Shri G.S.Walia, learned counsel for applicant and Shri V.S.Masurkar, learned counsel for respondents. We have also given careful consideration to the arguments advanced and the various orders of the Railway Board referred to.

7. In our considered view, the applicant was promoted to the Lab Supdt. Gr.II<sup>b</sup> as per the then prevailing qualification for that, there was no relaxation granted, the applicant possessed the requisite qualification at that time. She was further promoted to Gr.II in 1987, therefore the ground that she does not possess BSc Chemistry qualification should not come in her way. That the Respondents are also sympathetic in this matter is evident from the Railway Board's letter dated 6/7/2000.

8. According to us therefore, the applicant should have been considered for promotion to the Lab Supdt. Gr.I and further promotion to Chief Lab Supdt which is even now a non selection post. We therefore direct the respondents to hold a review DPC and consider the applicant for promotion to the post of Lab Supdt. Gr.I and if found fit, to promote her from the date her juniors i.e. R-3 was promoted to the aforesaid grade. She will also be entitled to all the consequential benefits. This exercise will be carried out within two months from the date of communication of this order.

9. The OA is allowed. We however do not order any costs.

  
(SHANTA SHASTRI)  
MEMBER(A)

  
(ASHOK AGARWAL)  
CHAIRMAN

abp

order/Judgement despatched  
to Applicant/Respondent (s)  
on 16/10/01

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~~M.P./No: 377/01.  
for Extension of  
time fixed on  
8/6/01 11/6/01  
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7/6~~

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

CONTEMPT PETITION NO.56 of 2001  
in  
ORIGINAL APPLICATION NO.346/00  
Dated this the 28th day of August, 2001

Coram: Hon'ble Mr. Justice Birendra Dikshit - Vice Chairman  
Hon'ble Mr. B.N. Bahadur - Member (A)

Smt. N.G. Shaikh,  
working as Lab. Superintendent  
Grade-II,  
Jagjivan Ram Hospital,  
Western Railway, Mumbai Central,  
Mumbai - 400 008.  
By Advocate Shri G.S. Walia - Petitioner/Applicant

Versus

Shri V.D. Gupta,  
General Manager  
Western Railway,  
Headquarter Office, Churchgate,  
Mumbai.

By Advocate Shri V.S. Masurkar - Contemnor/Respondent

ORDER (Oral)

Per: Hon'ble Mr. Justice Birendra Dikshit - Vice Chairman -

Shri G.S. Walia appearing for applicant and Shri V.S. Masurkar appearing for respondents jointly states that operation of the order of this Tribunal dated 28.2.2001 in O.A. 346/00 (Mrs. N.G. Shaikh Vs. Union of India & others) has been stayed by the High Court of Judicature at Bombay. As the operation of the order, the wilful disobedience of which is alleged, stands stayed by the Hon'ble High Court, we would not like to proceed with the matter any further. The notice to respondent is dropped and CP is dismissed. There shall be no order as to costs.

B. Bahadur

(B.N. Bahadur)  
Member (A)

dt- 28/8/01  
order/Judgement despatched  
to Applicant/Respondent (s)  
on 3/9/01

B. Dikshit

(Birendra Dikshit)  
Vice Chairman