

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 372 OF 2000

Date of Decision: 21.6.2001

Shri Vinayak Govind Bakre.

Applicant(s)

Shri S.S. Karkera

Advocate for Applicant

Versus

Union of India & 3 others

Respondents

Shri R.K. Shetty.

Advocate for Respondents

CORAM

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 ✓

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(SMT. SHANTA SHAstry)
MEMBER (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 372 OF 2000

THURSDAY, THE 21ST DAY OF JUNE 2001

CORAM

HON'BLE SHRI JUSTICE ASHOK AGARWAL. CHAIRMAN
HON'BLE SMT. SHANTA SHAstry. MEMBER (A)

Shri Vinayak Govind Bakre,
Aged about 45 ye a r
Residing at Madhuben,
B004 behind Vitthalwadi,
Checknaka, Parvati Nagar,
Pune. Applicant

By Advocate Shri S.S. Karkera.

Versus

1. Union of India, through
Secretary to Govt. of India,
Ministry of Defence,
South Block,
New Delhi-110 011.
2. The Controller General of
Defence Accounts,
West Block V, R.K. Puram,
New Delhi-110 066.
3. The Controller of Defence
Accounts, No.1, Finance Road,
Pune-411 001.
4. The Controller of Defence
accounts office,
Ministry of Defence,
Golibar Maidan,
Pune-411 001. Respondents

By counsel Shri R.K. Shetty.

...2.

ORDER (ORAL)

Hon'ble Smt. Shanta Shastry.

.. Member (A)

The applicant, who is working as Assistant Accounts Officer has sought promotion to the post of Accounts Officer against 3% quota reserved for the physically handicapped persons with effect from 16.1.98 i.e. when he has completed 5 years service in the post of Assistant Accounts officer. He has therefore, prayed to quash and set aside the impugned order dated 27.3.2000 wherein it has been directed to inform the applicant ^{that} _{no} provision for promotion from the reserved quota for the physically handicapped, exists in the Defence Accounts Department.

2. It is the contention of the applicant that he fulfills the criteria of 5 years service in the post of Assistant Accounts Officer for promotion to the post of Accounts Officer. He is a physically handicapped person having disability of more than 40%. He therefore, is entitled to consider ^{be} _{ed} ^M against the quota reserved for the physically handicapped persons. He has referred to the Government orders issued vide OM dated 18.2.1997 in respect of separate reservation roster to be maintained for each identified post to be filled through direct recruitment for the physically handicapped persons in Group "A" & "B" post services as well as the procedure to be followed for reservation to the physically

handicapped persons in case of promotion. The post of Accounts Officer is a selection post in Group "B" to be filled through the method of promotion of 100% 33 (1/3rd) vacancies are to be filled by selection and 66 (2/3rd) to be filled on seniority cum fitness basis.

3. Respondents submission is that the applicant was not recruited initially as a physically handicapped person. he was recruited against the general quota and he has now claimed in the midst of his career to be promoted against the physically handicapped quota. Further, there is no quota reserved for the physically handicapped in group "A" & "B" posts for promotion. On these two grounds the applicant is not entitled for being considered for promotion against the physically handicapped quota.

4. We find from the various orders produced by both the applicant as well as the respondents that reservation seems to be available for physically handicapped persons in Groups "A" & "B" post/ services for direct recruitment. Another OM dated 4.6.98 gives details about reservation for physically handicapped persons in Central Government posts/ service. This is with reference to Group "C" & "D" posts. In the same OM in para 1.2, it is stated that though there is no

reservation available for physically handicapped person in Group "A" & "B" posts/services, preference is to be given to these categories at the time of recruitment to identified posts. The learned counsel for the applicant submits that since this post of Accounts officer has to be filled by 100% promotion, it is to be treated as direct recruitment and therefore, reservation should be available for Group "A" & "B" posts also. The General orders brought to our notice are rather confusing. The main original order dated 20.11.1989 has not been made available at the time of hearing. Perhaps that would throw some light as to whether the applicant's claim can be considered.

5. According to us even though the applicant was not appointed initially against the quota for the physically handicapped persons, he should not be denied consideration for promotion at a later stage on that ground. It is nowhere stated that if a person is not appointed initially against the quota for physically handicapped, he should not be considered for posts reserved for physically handicapped persons at a later stage.

6. In view of this discussion, we feel that since the material available for consideration is not

adequate, ends of justice would be met if the respondents are directed to examine the whole issue afresh, particularly in the light of the original OM dated 20.1.89 and also para 1.2 of the OM dated 4.6.98 and consider the applicant's claim for promotion to the post of Accounts Officer and pass a speaking order. We order accordingly. This exercise may be carried out within a period of 3 months. We do not order any costs.

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(SMT. SHANTA SHAstry)
MEMBER (A)

(ASHOK AGARWAL)
CHAIRMAN

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