

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH: MUMBAI

ORIGINAL APPLICATION NO. 571 OF 2000

FRIDAY, THE 2ND DAY OF MARCH, 2001

SHRI JUSTICE ASHOK AGARWAL.  
SMT. SHANTA SHAstry.

... CHAIRMAN  
... MEMBER (A)

1. J.M. Kapdi, Junior Engineer,  
PWD, Administration of UT's of  
Daman and Diu & Dadra Nagar Haveli,  
Silvassa.
2. Dhirubhai B. Patel,  
Junior Engieneer, PWD,  
Administration of UTs of Daman  
and Diu and Dadra Nagar Haveli,  
Silvassa. ... Applicants

By Advocate A.K. Bhaktar

Vs.

1. Union of India through  
The Secretary to Govt. of India,  
Ministry of Home Affairs,  
South Block, New Delhi-110 001.
2. The Administrator, U.Ts of  
Daman and Diu and Dadra  
Nagar Haveli, Secretariate.  
Silvassa-396 230.
3. Shri Dilip Gangadharan,  
Junior Engineer, holding  
Charge of Dy. Engineer (Civil),  
PWD, Civil division No.II, Road,  
Sub-Div.-IV, Silvassa-396 230. ... Respondents

By A.C.G.S.C. Shri V.S. Masurkar for R1 & 2.

O R D E R

Shanta Shastry. ... Member (A)

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In this case the applicants are claiming promotion from the post of Junior Engineer to Deputy Engineer according to recruitment rules and according to seniority. The respondent

No.3 was given adhoc promotion as Deputy Engineer who is junior to the applicants in that grade. The respondents have submitted that first of all there is no vacancy of Deputy Engineer. The 3rd respondent was promoted to the post of Deputy Engineer on adhoc basis due to adhoc promotion of the incumbent to higher grade and that person has come back and there is no question of ~~any~~ one continuing on adhoc basis.

2. The applicants state that they had approached the Tribunal in this matter earlier also in OA No.23/99 and this Tribunal had directed that the 3rd respondent would continue only for a period of six months and beyond that the post should be filled on regular basis and even if it is to be filled on adhoc basis it should be <sup>per</sup> ~~as~~ seniority. The applicants' grievance is 3rd respondent who was promoted on adhoc basis from 4.1.99 for a period of 6 months continues to be in that post even at present. In support of this the learned counsel for the applicants has drawn our attention to vigilance certificate at page 52 of the OA indicating that the 3rd respondent ~~who~~ was acting as Deputy Engineer.

3. The learned counsel for the respondents, however clearly asserts that the 3rd respondent is no longer continued as Deputy Engineer in adhoc capacity. He had ceased to be ~~Depositional~~ <sup>Deputy</sup>

Engineer on the expiry of six months' period as directed by this Tribunal. Earlier there was no vacancy. However, a regular vacancy in the grade has now become available from 1.9.2000 due to retirement of the officer holding the post of Deputy Engineer. As per recruitment rules the post is to be filled by 75% on promotion and 25% by direct recruitment. Now the post is due for being filled by direct recruitment according to the roster maintained by the office and therefore the administration has sent a requisition to the UPSC to fill up this post by direct recruitment. Action is being taken by the UPSC to advertise the post. Now there is no promotion given in the absence of vacancy. In view of this the applicants' apprehension about the 3rd respondent continuing on adhoc basis in the post of Deputy Engineer by denying the senior persons is not maintainable. Accordingly the OA is dismissed. No costs.

*Shanta K*  
(SHANTA SHAstry)  
MEMBER (A)

*Agarwal*  
(ASHOK AGARWAL)  
CHAIRMAN

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