

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO.556/2000

FRIDAY, THE 21ST DAY OF SEPTEMBER, 2001

CORAM: SHRI JUSTICE V. RAJAGOPALA REDDY. VICE CHAIRMAN
SMT. SHANTA SHASTRY. MEMBER (A)

Balakrishna S. Shetty,
Resident of Veelchand Niwas,
1st Floor, Room No.51,
t.J. Road, SEWRI,
Mumbai-400 015.

... Applicant

By Advocate Shri P.A. Prabhakaran.

Versus

1. The Chief Postmaster General,
Maharashtra Circle, G.P.O.,
Fort, Mumbai-400 001.
2. The Chief Post Master,
Kalbadevi Head Post Office,
Kalbadevi, Mumbai-400 002. ... Respondents

By A.C.G.S.C. Shri V.S. Masurkar.

O R D E R (ORAL)

Shri Justice V. Rajagopala Reddy. Vice Chairman (J)

The applicant entered service of respondents canteen as Assistant Halwai on 1.1.1967. Pursuant to Supreme Court order, the employees working in non-statutory /Co-operative canteen etc., are converted into full fledged holders of civil post with all rights with effect from 1.10.91. In pursuance of the above order, the applicant and others were declared as Central Government employees by order dated 22.7.94 with effect from 1.10.91.

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2. It is stated by the applicant that on retirement on superannuation of Shri K. Shetty, who was working as Halwai in the canteen of Respondent, the post of Halwai fell vacant. The applicant started to discharge the duties of Halwai with effect from 1.4.94, but he was not paid the pay of the higher post till date. he was not even granted the benefit of insitu promotion of OM dated 13.9.91.

3. It is submitted that the canteen was downgraded from "A" grade to "B" grade and there was no sanction for the post of Assistant Halwai in "B" grade canteen. The applicant however, has been discharging the functions of Assistant Halwai as well as the post of Halwai.

4. He claims that he is also entitled for the benefit under the Assured Career Progression (ACP for short), but he was not granted any benefits under the scheme. Hence this OA.


5. The respondents, however submits that on conversion of the canteen from "A" grade to "B" grade the post of Assistant Halwai has been abolished. However, the applicant has been working even after its abolition as Assistant Halwai and he was paid the salary of the said post. In view of the ban imposed by the Government, the post of Halwai could not be filled up. The applicant has no right to be posted in the vacant

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post of Halwai unless he has been selected and promoted in accordance with the rules. The assertion of the applicant that he has been discharging the functions of Halwai is denied.

6. Heard the counsel for the applicant and respondents. The main grievance of the applicant in this case appears to be that as the post of Assistant Halwai was abolished in the "B" grade canteen. he was entitled to be considered for appointment in the post of Halwai, which is vacant. Though it is stated by the respondents that the post of Assistant Halwai has been abolished it is still maintained by the respondents that the applicant has been continuously working even after its abolition as Assistant Halwai and he was paid the same scale of pay. We are at a loss to understand how the salary of the post of Assistant Halwai is being drawn when the post was abolished. Be that as it may, we proceed on the footing, on the basis of the admission, that the applicant is still working as Assistant Halwai though it is liable to be abolished.

7. The only point that remains for consideration is, whether the applicant is entitled for promotion to the post of Halwai. Admittedly the said post is vacant. The reason given by the respondents that the post could not be filled up because of was, the ban imposed by the Government since 1994. When such ban is existed the applicant cannot be considered for promotion to the said

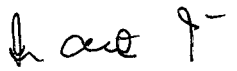


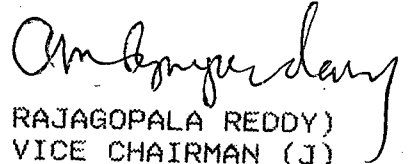
post. Further, it should be added that the applicant is not also entitled to claim the promotion only on the ground that the post is vacant. The applicant cannot claim the promotion to the post of Halwai.

6. We are of the view that the applicant is not entitled to the benefit of scheme dated 13.9.91 as he was converted to a Government servant only with effect from 1.10.91. As it is stated by the respondents that the applicant is under consideration for the grant of benefit under the ACP scheme, we do not express any opinion on this aspect except to say that his case should be considered in accordance with the scheme and give the benefit as and when he is found eligible for such benefits.

7. The applicant is not entitled for any additional remuneration or for the pay of the post of Halwai as there is no material to show that he has been working in the said post.

8. In the result, the OA fails and is accordingly dismissed. No costs.


(SMT. SHANTA SHASTRY)
MEMBER (A)


(V. RAJAGOPALA REDDY)
VICE CHAIRMAN (J)