

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 43/2001

DATE OF DECISION: 30/04/2001

Smt. Ramani Amma T

Applicant

Shri S.P.Saxena

Advocate for
Applicant.

Versus

Union of India & 5 Ors.

Respondents.

Shri R.K.Shetty for R- 1 to 5

Shri R.R.Shetty for R- 6.

Advocate for
Respondents.

Coram:

Hon'ble Shri Justice Ashok Agarwal, Chairman.

Hon'ble Smt. Shanta Shastray, 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 S.

(SHANTA SHAstry)
MEMBER (A)

abp

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO: 43/2001
DATED THE 30th DAY OF APRIL 2001

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

Smt.Ramani Amma T,
Accounts Clerk,
Office of Commander,
Headquarters, Bombay Sub-Area,
(r/o 15/1 Old Telegraph Quarters,
Colaba, Bombay - 400 005.)

... Applicant

By Advocate Shri S.P.Saxena

V/s.

1. Union of India, through the
Secretary, Ministry of Defence,
DHQ P.O., New Delhi - 110 011.
2. Dy C O A S T (T & C)
Army Headquarters (G.S.Branch),
DHQ P.O., New Delhi - 110 005.
3. The G.O.C. in C,
Headquarters, Southern Command,
Pune 411 001.
4. The Gen. Officer Commanding
Headquarters Maharashtra & Gujarat
Area, Colaba,
Bombay - 400 005.
5. The Commander,
Headquarters Bombay Sub Area,
Colaba, Bombay - 400 005.
6. Shri Sadanand M Bhandikeri,
Conservancy Storekeeper,
Headquarter Bombay Sub Area,
(Stn Cell), Colaba,
Bombay - 400 005.

... Respondents

By Advocate Shri R.K.Shetty for Respondents 1 to 5
By Advocate Shri R.R.Shetty for Respondent No.6.

Per Smt. Shanta Shastry, Member (A)

The applicant is aggrieved by the impugned order dated 19/12/2000 and 21/12/2000 whereby she has been reverted from the post of Accounts Clerk to Conservatory Safaiwali Group 'D'.

2. The applicant was initially appointed as Conservatory Safaiwali in Group 'D' post and she joined on 11/3/81. Thereafter she was promoted as Accounts Clerk w.e.f. 15/4/82 and she continued to be in the promoted post till today. The Applicant's grievance is that the respondents have reverted her after a lapse of 18 years and that too without prior notice to her. However, there is a Higher promotional post of General Supervisor. The Accounts Clerk and Conservancy Storekeeper are the feeder cadres for the post of General Supervisor. After holding a DPC, the applicant was empanelled for the post of General Supervisor. Then the respondents received information that the applicant's initial promotion to the post of Accounts Clerk itself was irregular in that she did not fulfil the requisite qualifications and conditions particularly 5 years experience. Therefore the respondents took the decision to revert the applicant.

3. According to the respondents, the entire promotion of the applicant was against the Recruitment Rules as she did not fulfil the eligibility criteria of five years experience and therefore she cannot be allowed to continue in the aforesaid promoted post.

4. The learned counsel for the applicant submits that the Recruitment Rules for the post of Accounts Clerk provided the

power to relax the experience and accordingly at the relevant time the applicant was considered for promotion with relaxation regarding experience and was promoted. In any case this issue cannot be raised against her now after 18 years service in the promoted post.

5. The learned counsel for the respondents tried to point out that the applicant had manipulated the whole thing at the local level and managed to get promoted which is illegal. However, the respondents could not show any material in support of this. The learned counsel for respondents also submits that she had managed to get the initial appointment fraudulently stating that she belonged to the Scheduled caste. Further, though originally in the service book of the applicant, the applicant was shown as belonging scheduled caste, later on the word "Non" seems to have been added before 'Scheduled Caste' to show that the applicant is not from Scheduled caste. There seems to have been some tampering of the record. The respondents also showed a communication from the Office of the Employment Exchange at page-62, of the OA wherein the applicant is shown as Scheduled caste.

6. In our considered view, the applicant having been promoted 18 years ago cannot now be reverted. It is well settled law that settled position cannot be disturbed after a long lapse of time. The Hon. Supreme Court has also ruled accordingly in the case of K.R.Mudgal & Ors V/s. R.P.Singh & Ors 1986(4)SCC 531. In regard to the applicant seeking employment fraudulently claiming to be belonging to SC category the respondents sought a

clarification in this connection from the concerned Employment Exchange and the Employment Exchange vide their letter dated 12/13th March, 2001, have clarified that as per their record of Registration, the applicant had not produced any caste certificate and therefore her name was Registered as general candidate.

7. Therefore, it appears, through inadvertance the applicant was shown to have been belonging to Scheduled caste by the Employment Exchange. The applicant has nowhere claimed herself to be scheduled caste. It is not her fault. Therefore this cannot come in the way of the applicant continuing in service.

8. In the facts and circumstances of the case, the order dated 19/12/2000 is quashed and set aside. Similarly, the order dated 29/12/2000 is quashed and set aside with reference to para-4(a) i.e. in regard to reversion. OA is allowed. We do not order any costs.

Shanta S-

(SHANTA SHAstry)
MEMBER(A)


(ASHOK C AGARWAL)
CHAIRMAN