

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.641/2001.

Monday, this the 15th day of April, 2002.

Hon'ble Shri Justice Birendra Dikshit, Vice-Chairman,
Hon'ble Shri B.N.Banadur, Member (A).

Devidas Gangaram Shirwadkar,
Sai Kripa Chawl No.8,
Ramabai Ambedkar Nagar-2,
Bhandup (W),
Mumbai - 400 078.
(By Advocate Shri P.A.Prabhakaran)

...Applicant.

VS.

1. Union of India through
The Chief Post Master General,
General Post Office Building,
Fort,
Mumbai - 400 001.

2. Director (Administration),
O/o. the Chief Post Master General,
General Post Office Building, Fort,
Mumbai - 400 001.

3. Shri Madhukar Bhairao Nikkam,
Wash Boy, C/o. Supervisor (Canteen),
Mumbai GPO, Gr. Floor,
Old GPO Building, Fort,
Mumbai - 400 001.
(By Advocate Smt. H.P.Shah)

...Respondents.

: O R D E R :

B.N.Bahadur, Member (A).

Through this OA, the applicant challenges the communication dt. 15.3.2001, a copy of which is annexed at Exhibit "A" page - 8. The applicant is aggrieved that his designation is being treated as "Wash Boy" and that rightly speaking it should be treated as "Bearer". Prior to the acceptance of the Report of the 5th Pay Commission in this regard, the pay and allowances of persons occupying these two

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posts were similar, but with the acceptance of the 5th Pay Commission Report, the post of "Bearer" has been given a higher pay scale. Thus, the applicant is aggrieved, in that he is considered as a "Wash Boy". He seeks the relief for a direction to the Respondents to restore his original designation/post and grant consequential benefits. Also a direction is sought to restore/refund the pay and allowances already reduced.

2. We have considered the OA and averments made in the OA, and also seen the written reply of the Respondents. We have heard Learned Counsel on both sides viz. Shri P.A.Prabhakaran for applicant and Smt. H.P.Shah for the Respondents. The salient points made by the applicant in OA and argued by Learned Counsel Shri P.A.Prabhakaran relates to the document at page 10 (Exh. A-1). This purports to be an appointment order dt. 16.9.1983 where the applicant has been shown as having been appointed as Bearer w.e.f. 1.8.1983. This is the basis of the main argument in the entire case of the applicant.

3. The Respondents have taken a stand that this document is not available, and that whatever documents are available have been produced for perusal of the Tribunal. In fact, we adjourned the case on more than one occasions and have seen the records produced by Counsel viz. Service Book of the applicant and a file in which some documents are available like leave applications etc. from which the Respondents have taken a stand that applicant has indeed been aware throughout of his designation as Washboy.

4. In the first place, the document of appointment as contended by the applicant is a photo copy. We do not have the

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A handwritten signature in black ink, appearing to read 'B.S.' or 'B. S.'.

benefit of the original orders. We tried to match this, however, giving it whatever credentials that could be with the other evidence on record. As against this, we have a document on the third page of Service Book relating to Form No.8 where the applicant has signed in English, and can be seen to possess knowledge of Devanagari. As we see from other documents as signed above the applicant is designated as Wash Boy. There is no entry anywhere of the applicant being a Bearer at any stage. The date of appointment as mentioned as on 1.10.1983 initially in Service Book and later corrected to 1.9.1983. We have also perused a file in which there are more than one applications made by the applicant for Earned Leave. These are in Devanagri script where the applicant has clearly stated his designation as Wash Boy. The applications contain various dates 1993 to 1997. Learned Counsel for applicant had taken up the stand that he is after all a low ranking officer, he would have not taken any objection on designation since earlier every one were doing sharing work and pay scales of Washboy and Bearer were same. This is not an argument that can be accepted in a case where the relief is sought through judicial determination.

5. Learned Counsel Shri Prabhakaran had also taken an argument that another person who entered as Sweeper and one who entered as Wash Boy were nevertheless provided the designation of Bearer at later stage when the Canteen changed the Status from that of a Co-operative Canteen to Government Canteen. We are afraid, we cannot base our conclusions on this basis, even though an allegation has been made that this is because of the

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concerned Officer at that time who according to Learned Counsel for the applicant had played mischief.

6. In a case where the entire record before us takes the applicant to be Wash Boy except a document at Page 10 referred to above, we are not able to provide the reliefs sought. The OA is therefore, dismissed with no order as to costs.

B.N.Bahadur

(B.N.BAHADUR)
MEMBER(A)

B.Dikshit

(BIRENDRA DIKSHIT)
VICE - CHAIRMAN

B.

At 15/4/02
① Judgment despatched
to applicant (s)
on 20/4/02

W.