

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 315/2001

Date of Decision: 19.12.2001

Pravin D. Shrotri

Applicant

Shri D.V. Gangal

Advocate for Applicant

Versus

Union of India & another

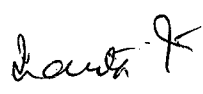
.. Respondents

Shri R.R. Shetty.

Advocate for Respondents

CORAM: HON'BLE SHRI JUSTICE BIRENDRA DIKSHIT. VICE
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 ✓


(SMT. SHANTA SHASTRY)
MEMBER (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 315/2001

THIS THE 19TH DAY OF DECEMBER, 2001

CORAM: SHRI JUSTICE BIRENDRA DIKSHIT. VICE CHAIRMAN
SMT. SHANTA SHASTRY . MEMBER (A)

Shri Pravin D. Shrotri
working as Technical Officer (A),
in the naval materials Research
Laboratory, Mumbai. .. Applicant

By Advocate Shri D.V. Gargal.

Versus

1. Union of India through
Scientific Advisor to Raksha Mantri
And The Director General,
Research and Development Organisation,
Directorate of Personnel,
137, B Wing, Sena Bhavan,
DHQ Post, New Delhi-110 011.
2. The Director,
Naval Materials Research Laboratory
Naval Dockyard,
Tiger Gate, Ballard Pier,
Mumbai-400 023. ... Respondents

By Advocate Shri R.R. Shetty.

O R D E R

Smt. Shanta Shastry. Member (A)

The applicant had earlier filed OA No.399/98
which was decided by this Tribunal by order dated
04.5.1999. The relief sought in that OA was as follows:

"that the respondents be directed to implement
the decision conveyed in the letter dated
23.7.1996 and accordingly they be directed to
declare the applicant's promotion from
06.3.1984 shall be treated as qualifying
service for the purpose of next promotion and
accordingly the respondents may be directed to
consider the case of the applicant for next
promotion after expiry of three years from
06.3.1984 and grant him all consequential
benefits including pay fixation, payment of
arrears, interest etc."

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2. A selection was held for the post of JSA-I in the year 1984. Five of the seniors of the applicant were promoted by order dated 02.01.1984 from the post of Lab Assistant to JSA-I. That the applicant could not be promoted for want of vacancy. He was later on promoted from 06.3.1984 on adhoc basis subject to de-reservation of the reserved vacancy and with a further condition in the order that the said adhoc service will not count towards qualifying service for promotion to the next grade. The applicant was regularly promoted with effect from 22.8.1984 after dereservation of the vacancy.

3. This Tribunal decided the OA by its judgment and order dated 04.5.1999. The operative part of the judgment reads as follows: (para 7)

"Applicant is entitled to the benefit of adhoc service from 06.3.1984 only for the limited purpose of seniority as considered by the respondents in the two letters dated 23.7.1976 and 11.6.1998. The applicant prayed for treating the adhoc service from 06.3.1984 also for the purpose of qualifying service for next promotion is hereby rejected. It is made clear that the applicant is not entitled to the benefit of adhoc service from 06.3.1984 for the purpose of qualifying service for promotion to the next grade."

4. The applicant thereafter filed WP No.2522/99 in the High Court of Bombay. The High Court ordered as follows on 22.02.2000. "if the petitioner has any ground to make out his case of seniority, the department is willing to consider the representation on its own merits and in accordance with the rules. If as a result he does get his case of seniority admitted, as a result, he gets the benefit of qualifying service, the department shall examine the consequences thereof and appropriate orders will be passed. The petitioner to

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make representation within a period of one week from today and on receipt thereof within three months the department shall decide the same."

5. Time for filing representation was extended to one month instead of one week by a further order dated 01.4.2000.

6. In pursuance of this order, the applicant made a representation to the respondents on 17.4.2000. The respondents examined his representation as directed by the High Court and gave a decision vide letter dated 20.6.2000 - Annexure-A.

7. The respondents rejected his request to count the adhoc service as qualifying service for next promotion while maintaining that the same will count for seniority as already conceded. Being aggrieved by the aforesaid order, the applicant has again knocked the doors of this Tribunal with the following prayers:

(a) This Hon'ble Tribunal will be graciously pleased to call for the records of the case which led to the issuance of impugned orders dated 20.06.2000 and 28.09.2000 and after going through its legality, propriety and constitutional validity, Quash and set aside the said 2 orders dated 20.06.2000 and 28.09.2000.

(a)(a) This Hon'ble Tribunal may further be pleased to hold and declare that the clarification dated 11.06.1998 is illegal and void and the same be ignored.

(b) This Hon'ble Tribunal will be graciously pleased to direct the Respondents to regularise the promotion of the Applicant as JSA-I, w.e.f. 06.03.1984.

- (c) This Hon'ble Tribunal will be graciously pleased to hold and declare that the Applicant has put in more than 3 years of qualifying service as JSA-I on 16.03.1987.
- (d) The Hon'ble Tribunal will be graciously pleased to direct the Respondents to promote the Applicant as SSA w.e.f. 16.03.1987, along with all consequential benefits, such as back wages, seniority, promotions, higher pay scale, fixation at appropriate pay scales, counting the seniority in those grades from appropriate date and whatsoever benefits arising out of setting aside the impugned orders.
- (e) Cost of this Original Application be provided for.
- (f) Any other and further orders as this Hon'ble Tribunal may deem fit, proper and necessary in the circumstances of the case.

8. A glance at this will make it clear that the main prayer in this OA is no different from the one made in OA No.399/98. The only additions are, the impugned orders dated 20.6.2000 and 28.9.2000 to be quashed and set aside and to hold and declare that the clarification dated 11.6.1998 is illegal and void and the same be ignored. It is thus seen that he is using the reply to his representation as a fresh cause of action. He is agitating the same issue. His request has been categorically and specifically rejected once by this Tribunal. The respondents have also reiterated their stand.

9. We have heard the learned counsel for the applicant and also the respondents. The arguments advanced and the point made out by the applicant in the present OA are no different from those advanced by him in the earlier OA. No new point is taken. This Tribunal cannot set aside its own judgment and order. It can be only by way of review or by way of appeal in

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the High Court. The time for review was over long ago. Also there cannot be any review now, as the applicant has already obtained an order of the High Court.

10. In the facts and circumstances of the case, we do not see any convincing reason to quash or set aside the impugned orders dated 20.6.2000 and 28.9.2000 or to set aside this Tribunal's earlier order. Accordingly, we are unable to interfere in this matter. The OA is dismissed without any order as to costs.

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(SMT. SHANTA SHASTRY)
MEMBER (A)

B. Dikshit

(BIRENDRA DIKSHIT)
VICE CHAIRMAN

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