

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
\* \* \* \* \*

Commercial Complex (BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 17 AUG 1988

APPLICATION NO.

619

/88(T)

W.P. NO.

2459

/82

Applicant(s)

Respondent(s)

Shri B. Lingappa

v/s

The Director, ADE, Bangalore & 2 Ors

To

1. Shri B. Lingappa  
Tradesman 'A', Foundry A.D.E.  
Token No. 276  
Aeronautical Development Establishment  
Jeevanbhemanagar  
Bangalore - 560 075
2. Shri S.K. Srinivasan  
Advocate  
No. 10, 7th Temple Road  
15th Cross, Malleswaram  
Bangalore - 560 003
3. The Director  
Aeronautical Development Establishment  
Jeevanbhemanagar  
Bangalore - 560 075

4. The Chairman  
Recruitment Committee  
Office of the Director  
Aeronautical Development Establishment (ADE)  
Jeevanbhemanagar  
Bangalore - 560 075
5. Shri S. Munikrishnaiah  
J.S.A.-I  
Reprographic Section  
Aeronautical Development Establishment (ADE)  
Jeevanbhemanagar  
Bangalore - 560 075
6. Shri M.S. Padmarajaiah  
Central Govt. Stng Counsel  
High Court Building  
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAY/INTERIM ORDER  
passed by this Tribunal in the above said application(s) on 11-8-88.

*Issued  
R. Malhotra  
18.8.88*

Encl : As above

*of*

*Hall*  
SECTION OFFICER  
DEPARTMENT OF EXCISES  
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH : BANGALORE

DATED THIS THE 11TH DAY OF AUGUST, 1988

Present: Hon'ble Shri Justice K.S.Puttaswamy, Vice Chairman  
Hon'ble Shri P. Srinivasan, Member (A)

Application No.619/88(T)

Shri B.Lingappa,  
Tradesman 'A', Foundry A.D.E.,  
Token No.276, Aeronautical  
Development Establishment,  
Jeevan Bheemanager,  
BANGALORE-75.

... Applicant

(Shri S.K.Srinivasan, Advocate)

vs

1. The Director,  
Aeronautical Development Establishment,  
Jeevan Bheemanager,  
Bangalore-560075.

2. The Chairman,  
Recruitment Committee,  
A.D.E. Office of the  
Director, A.D.E. Establishment,  
Jeevan Bheemanager,  
Bangalore-560075.

3. Shri S.Manikrishnaiah,  
J.S.A.1, REPROGRAPHIC SECTION,  
Aeronautical Development Establishment,  
Jeevan Bheemanager,  
Bangalore-560075.

... Respondents

(M.S. Padmarajaiah, CGSC) (Advocate)

This application having come up for hearing,

Shri P. Srinivasan, Hon'ble Member (A) made the following:

ORDER

This is a transferred application which originated  
as Writ Petition No. 2459 of 1982 before the Karnataka High Court.  
The applicant, who is currently working as a Master Craftsman  
in the Aeronautical Development Establishment (ADE) at Bangalore

P. Srinivasan



has challenged Order dated 7-8-1981 by which Respondent No.3, S.Munikrishnaiah, was appointed as Junior Scientific Assistant-I (JSA-I) in the same organisation; his grievance is that it was he (the applicant) who should have been appointed to the post and not respondent No.3.

2. The applicant joined ADE as a Precision Mechanic on 31-8-1974. In response to an advertisement in Employment News published on 17-1-1981 he applied for a post of JSA-I in the same establishment. Of the several posts under that category which were advertised, he applied for the posts at Serial No.7 and at Serial No.13. There is no dispute that he possessed the requisite qualifications for appointment to both the posts which were, (1) a Diploma in Mechanical Engineering of a recognised Institution or equivalent and (2) 2 years' experience (a) for post No.7, in aluminium alloy foundry castings of high quality for aeronautical use and (b) for post No.13, in Inspection of pattern and castings to aeronautical standards. He was admitted to the written test (or trade test) on 7-6-1981 in which he duly qualified and was thereupon called for interview on 8-6-1981. But unfortunately for the applicant, he did not find his name in the list of persons selected for appointment published on 7-8-1981. Instead, Respondent No.3, Munikrishnaiah, was selected for appointment to Post No.13 and by order dated 7-8-1981 appointed to that post with effect from 1-8-1981. Representations made by the applicant to the authorities complaining that he had been wrongly passed over for appointment and seeking a review of the selection having failed, the present application was filed before the Karnataka High Court on 17-12-1981 and registered as Writ Petition No. 2459 of 1982. The said Writ Petition was transferred to this Tribunal by an order

P. D. 45



of the High Court dated 29-3-1988 passed in terms of Section 29 of the Administrative Tribunals Act, 1985. It was received in this Tribunal on 18-4-1988 and registered as Application No. 619 of 1988 (I). That is how it has come before us today for disposal.

3. Shri S.K.Srinivasan, learned counsel appearing for the applicant, submitted that the entire selection process as a result of which the applicant was left out and respondent No.3 was appointed was vitiated. Only 50 marks had been allotted for the written test while 100 marks had been allotted to the interview. The allotment of 100 marks for the interview was disproportionate as favouritism was likely to play a large part in awarding marks in interview. The Supreme Court had, in AJAY HASIA VS KHALID MUJIB SEHRAVARDI 1981 SCC (L&S) 258, held that allocating even 33 1/3% of the total marks for oral interview was unreasonable and arbitrary while here interview accounted for 66 2/3% of the total marks. The applicant had obtained 36 out of 50 marks in the written test, i.e. 72%, but in the interview, he had been failed for not having obtained even 50% of the maximum. It was a plain case of favouring respondent No.3, who had obtained only 25 out of 50 marks in the written test but was pushed up in the interview by being awarded more than 50% and on that basis selected for appointment. The Chairman of the Selection Committee Shri Prakash was from Andhra Pradesh and respondent No.3 being also from



P.S. - 16 -

the same place, he had been favoured in this way. The applicant did well in the interview and deserved over 50% of the marks, but was deliberately kept down. Respondent No.3 did not possess the requisite experience qualification for either post No.7 or post No.13, but yet was selected for post No.13 ignoring the claims of the applicant who had the necessary qualification.

4. Shri M.S.Padmarajaiah, learned Senior Central Government Standing Counsel sought to refute the contentions of Shri Srinivasan. Respondent No.3 had both the educational and experience qualification required for Post No.13. To be selected for appointment, a candidate had to obtain 50% of the marks in the written test as well as in the interview. Though the applicant secured over 50% in the written test, he failed to do so in the interview and therefore, he was not selected for appointment. The applicant's claim that he had done well in the interview was not right as the Recruitment Board constituted for the purpose had awarded him 46 marks out of 100, i.e. less than 50%. The allocation of 100 marks for interview had been made taking into account the nature of the duties of the post to which selection was to be made. The ruling in Ajay Hasia's case had been clarified by the Supreme Court itself in LILA DHAR VS STATE OF RAJASTHAN AIR 1981 SC 1777, as having application primarily to cases of admission to colleges and not to recruitment to public services in this case. The weight to be given to interview, as held in LILA DHAR's case, would depend, inter alia, on the requirement of the service and here the authorities had taken that factor into account while allocating 100 marks for the interview. Shri Padmarajaiah categorically denied the allegation that the Chairman of the Recruitment Board

D. L. - 6



9. In the result, the application is dismissed and parties are directed to bear their own costs.

Sd/-

(K.S.PUTTASWAMY)  
VICE CHAIRMAN

Sd/-

(P.SRINIVASAN)  
MEMBER(A)

TRUE COPY



*Hossi*  
SECTION OFFICER 17/s  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDRESS: 1, PITCH  
ROAD, BANGALORE

The feeling is inescapable that all was not well with the marking of the Board in regard to experience and technical qualifications in the case of the applicant.

8. Having said so much, we are not at this stage inclined to upset the results and direct that the applicant be appointed as JSA-I displacing respondent No.3. As we have already stated, Respondent No.3 was appointed as JSA-I in August 1981. The applicant came to court in December 1981, but in such cases, resort to court should have been immediate and a prayer for interim relief should have been made which the applicant failed to do. The result is that as of today, respondent No.3 has not only been holding the post of JSA-I for 7 years, but has also been promoted to a still higher post: displacing him after such a long time would not be fair. There is no suggestion in the application nor ~~was there~~ <sup>is</sup> in the arguments of applicant's counsel that respondent No.3 ~~was~~ was himself in any way responsible for the results which were adverse to the applicant. Moreover, we understand that the applicant himself has been promoted to the post of Master Craftsman in October 1984 in the same grade as that of JSA-I and has been working in that post since then. Respondent No.3 appeared before us once and stated that he did not want to file any reply to the application and he did not participate in these proceedings thereafter. This application has to fail because the applicant has not been diligent and alert in pursuing his rights. It is up to respondents 1 and 2 to try and do what they can for him. We leave the matter at that.



Mechanical Engineering. He possessed a II class Diploma, while respondent No.3 had a I class Diploma. The applicant was awarded the minimum qualifying percentage (50) under the head 'qualifications', that is, 8 out of 15, and respondent No.3 got 12 out of 15: one may not quarrel with this result too much. Turning to experience, the selection records show that the applicant had worked in ADE from August 1974 as a precision mechanic involving "Inspection of patterns and castings etc. to aeronautical standards", which is exactly the kind of experience required for post No.13 - and against the required experience of 2 years, the applicant had more than six years, when he was interviewed in June 1982. But the marks awarded to him for experience are a mere 5 out of a total of 20. Since he possessed more than the required experience, one would have expected him to be awarded at least the minimum qualifying percentage of 50 under this head, i.e. 10 out of 20 and if that had been done, the applicant's total marks in interview would have been 51 and not 46 and he would have qualified for appointment with a total of 87 marks against 85 obtained by respondent No.3. We also notice that under technical knowledge, the original entry of 20 marks (out of 30) against the applicant's name has been corrected downwards to 18. While 5 members of the Recruitment Board have signed at the bottom of the page, the correction is initialled by only one of them, probably the Chairman. Considering that in the written test, which could be said to cover technical knowledge, the applicant got 76 out of 50, the original figure of 20 would appear to be nearer the mark.

*P. J. S.*



showed favouritism to Respondent No.3 on linguistic considerations.

5. We have given the most anxious consideration to the contentions advanced on both sides. As regards the contention of Shri Srinivasan that interview had been given undue weight in the present case, we have to first examine whether the allocation of 100 marks to interview has actually affected the interests of the applicant adversely. As we have already noticed, a candidate had to obtain a minimum percentage of marks separately in the written test as well as in the oral test before he could be selected. The applicant failed to secure the said minimum percentage in the oral test. If the allocation of marks to the interview were less, say, 50 or 25, he would still have failed since the percentage obtained by him was less than the minimum. Only if he had qualified in the interview by obtaining over 50% would it make a difference if the allocation of marks for interview was more. Therefore, also bearing in mind the caution administered in Lila Dhar's case that we <sup>H</sup> should not usurp a function that is not ours by interfering with the relative weight to be attached to the various tests except in glaring cases, we reject the applicant's contention that the allocation of marks for the interview in this case was unduly large. We would also be slow to interfere with the prescription of a qualifying minimum percentage in the interview for selection, bearing in mind the recent decision of the Supreme Court in MEHMOOD ALI TARIQ AND OTHERS VS THE STATE OF RAJASTHAN (1988) 3 SCC 241.



P. 49

6. The allegation of favouritism and linguistic prejudice against the Chairman of the Selection Board, Shri Prakash, has been vehemently denied in the reply of the respondents as well as by Shri Padmarajaiah before us. We are not inclined to accept the allegation as correct as the applicant has not produced any convincing evidence in this regard.

7. The respondents made available to us the records of the selection which we have perused. The applicant was awarded 36 out of 50 marks in the written test and 46 out of 100 marks in the interview making a total of 81 marks in all. Respondent No.3 secured 25 out of 50 in the written test, just qualifying for the interview, but he got 60 out of 100 in the interview - well above the qualifying minimum of 50% - carrying his total to 85 marks. If that were all, we would have nothing more to say except that in the judgement of the Recruitment Board, respondent No.3 was more deserving. But we must here notice some disquieting features in the manner marks were awarded in the interview. The marks in interview are broken into 6 sections and the subdivision of marks to these sections were as follows: 15 marks for qualifications, 20 for experience, 10 for personality, 10 for confidence, 10 for expression, 30 for technical knowledge and 5 for extra curricular activities. Normally qualifications and experience are given in the applications made by candidates and can be evaluated after verification before the interview. Such evaluation should not form part of the marking in the interview. It is common ground that the applicant had the necessary qualification which was a Diploma in

*P. S. T. S.*

