

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH ~~AT MUMBAI~~
CAMP NAGPUR

(11)

199

O.A. NO: 896/90

T.A. NO:

25-4-95

DATE OF DECISION

Mrs. Tarika M. Badole, Legal Hair & wife of late
Petitioner

Shri Madhukar Gopalrao Badole

Advocate for the Petitioners

Shri S.H. Iyer

Versus

Union of India & Others

Respondent

Advocate for the Respondent(s)

Shri R.P. Darda

CORAM:

The Hon'ble Mr. Justice M.S. Deshpande, Vice Chairman.

The Hon'ble Mr. P.P. Srivastava, Member(A).

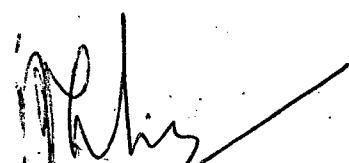
1. Whether Reporters of local papers may be allowed to see the Judgement ?

2. To be referred to the Reporter or not ?

3. Whether their Lordships wish to see the fair copy of the Judgement ?

4. Whether it needs to be circulated to other Benches of the Tribunal ?

Ab


(P.P. SRIVASTAVA)
MEMBER(A)

Ab

(12)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH CAMP AT NAGPUR.

O.A.896/90.

Mrs. Tarika M. Badole, Legal Heir & wife of late
Shri Madhukar Gopal Rao Badole ... Applicant.

-V/s.-

Union of India & Others.

... Respondents.

CORAM: Hon'ble Shri Justice M.S.Deshpande, Vice Chairman.
Hon'ble Shri P.P.Srivastava, Member (A).

APPEARANCES:

Shri S.H.Iyer, Counsel for
Applicant.

Shri R.P.Darda, Counsel for
Respondent.

JUDGMENT:

DATED : 25-4-95

¶ Per Shri P.P.Srivastava, Member(A). ¶

The applicant was recruited and posted as Head Mechanic in Geological Survey of India in May, 1966. He was promoted to the post of Foreman (Junior) in the scale of Rs 425-15-500-EB-15-560-20-700 on 15/12/78. He was made permanent as Foreman (Junior) on 1/3/81. The applicant was further promoted to the post of Foreman (Senior) in the scale of Rs.550-25-750-EB-30-900 from 2/4/85. The applicant has submitted that respondent-4 Shri N.B.Borkar was all along junior to the applicant in the post of Head Mechanic and Foreman (Junior). However, in the provisional seniority list circulated on 2/1/90, respondent-4 has been shown senior to the applicant (placed at Annexure-3).

2. The applicant has further brought out that respondent-4 was posted to officiated Foreman (Junior) from 17/2/86. However, a review DPC was conducted and respondent-4 was given the date of promotion as Foreman (Junior) w.e.f. 10/1/80 ~~by M/s~~ ^{that} the letter dt. 18/5/89 placed at Annexure-7. Aggrieved by the promotion of the respondent-4 as Foreman (Junior) w.e.f. 10/1/80 as a result of review DPC and his promotion as Foreman (Senior) on 2/4/85, the applicant has filed this OA and has prayed that his promotion as

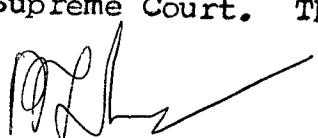


Foreman (Junior) from 10/1/80 and Foreman (Senior) from 2/4/85 be quashed. However, during the pendency of the Original Application, the Original Applicant Shri M.G.Badole has died and the legal heir Smt.Tarika.M.Badole, wife of the deceased has been brought on record. During the course of argument, the Counsel for the Applicant has prayed that the applicant may be granted fixation of pay equal to respondent-4 as Foreman (Senior) and may be paid arrears as well as pensionary benefits according to the fixation and now the applicant is no longer interested in quashing of the order of promotion of respondent-4.

3. It has been brought out by the respondent² that respondent-4 could not be considered for promotion for the post of Foreman (Junior) in September, 1979 on account of the fact that his status as Scheduled Caste was not recorded in the seniority list. When that mistake was realised, the entire issue was re-examined and it was decided that respondent-4 is entitled to all benefits admissible to Scheduled Caste from the date of initial appointment and therefore a review DPC was held on 27/2/89. In this review DPC, respondent-4 was given seniority from the date his immediate junior was promoted as Foreman (Junior) i.e. 10/1/80. The respondents have brought out that this promotion in 1979 was conducted on All India Basis as the seniority of Foreman (Junior) at that time was maintained on All India Basis at Central office. The bifercation on the basis of region took place on 1/8/84 and the regions were allowed to hold promotional post on the basis of regional seniority thereafter. The respondents have further brought out that on the basis of his date of promotion, as Foreman (Junior) as on 10/1/80, the review DPC was conducted for considering his eligibility for promotion to the post of Foreman (Senior) and he was selected by the review DPC held on 19/9/89 as Foreman (Senior) and classified as very good.

Since the applicant was considered in the DPC held on 4.3.1985 and was considered as good, the respondent-4 in the revised grading became senior to the applicant. The respondents have produced the records of the DPC for our perusal. It is seen from the records that respondent-4 was given date of seniority from 10/1/80 as Foreman (Junior) with reference to one Shri B.N.Das in the seniority list on All India Basis. Since the Applicant was promoted as Foreman (Junior) before this date, he could not have any claim viz-a-viz respondent-4 as far as his posting as ~~Foreman~~ (Junior) is concerned. It is also seen that the respondents' administration had taken the decision to grant all benefit to respondent-4 by virtue of his status as Scheduled Caste and therefore he became eligible to be considered for the post of Foreman (Senior) in the DPC which was held on 4/3/85 wherein the original applicant in the OA was selected. Since the review DPC has placed respondent-4 as very good, he has been accordingly placed senior to the applicant who had been placed only as good. Thus the status of the applicant as Foreman (Senior) has been determined on the basis of this grading in DPC and he could not have any claim viz-a-viz respondent-4 who has been graded above him.

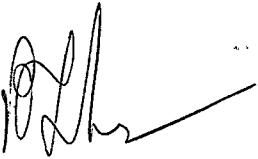
4. The Counsel for the applicant has put reliance on Supreme Court judgment 1984 (Supp) S.C.C. 142 Ramendra Singh V/s. Jagdish Prasad and Others wherein it was held that the Departmental Orders appointing sub-overseers as overseers on temporary basis with retrospective effect from the date of publication of their result of diploma examination was held violative of Articles 14 and 16 as that would adversely affect the seniority of those who had already been appointed overseers. The facts in the circumstances of this case has no bearing on the matter under consideration. Here the respondent-4 was granted status as Scheduled Caste and was given all benefits which would accrue from that decision from the date of his appointment and this decision in no way attracts the ratio laid down in the above decision of the Supreme Court. The Counsel for applicant has also brought to

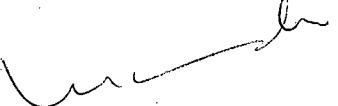


our notice a decision of Central Administrative Tribunal, Madras 1988 (6) ATC 975 in V.Thirunavukkarasu V/s. Director of Supplies & Disposals & Others wherein it was held in the facts and circumstances of that case that the irregularity does not justify review of previous proceedings of the DPC. The fact of this case are entirely different and the decision taken in the facts and circumstances of this case does not lay down any ratio which would have application in the facts and circumstances of the present case. The Counsel for Applicant has also brought to our notice certain cases brought out in Case Law digest concerning Procedure for verification of claims of SC and ST and Review DPC, its purpose and scope. However, none of these have any bearings in the facts and circumstances of the present case. We are satisfied that the review DPC conducted in the case of respondent-4 has been done in terms of rules and procedure laid down.

5. We do not find any infirmity in giving promotion to respondent-4 as Foreman (Junior) from 10/1/80 and treating him senior to the applicant in the cadre of Foreman (Senior).

We therefore find no merit in the claim of applicant and the same is dismissed. There will be no orders as to cost.


(P.P.SRIVASTAVA)
MEMBER(A)


(M.S.DESHPANDE)
VICE CHAIRMAN

abp.