

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, "GULESTAN" BUILDING NO.6
PRESCOT ROAD, BOMBAY-400001

(2)

Review Petition No.91/91
in O.A. No. 126/90

S M Nandgaonkar

..Applicant

V.

Union of India & 4 others
B N Sinha,

..Respondents
..Respondent No.5

Coram: Hon.Shri Justice U C Srivastava, V.C.
Hon.Shri A B Gorthi, Member (A)

TRIBUNAL'S ORDER:(By Circulation) DATED: 10-1-1992
(PER: U C Srivastava, Vice Chairman)

This Review Petition No.91/1991 is filed against our judgment dated 22.11.1991, by respondent no. 5 B N Sinha. One review petition no.90/1991 has been filed by the Government respondents. By this review petition the original respondent no. 5 has taken many more grounds than could have been said to have been taken in the Original Application in the written statement. The review application provision is not for rehearing or for ~~not~~ sitting in appeal over ~~our~~ judgment wherein every observation and every finding of the Tribunal which it challenged. The review petition has been directed on the ground that certain valid fact was brought to the notice of the Tribunal at the time of hearing of the application and that while other facts are taken into consideration and the valid fact brought to the notice of the Tribunal has been ignored which has resulted in carrying out the justice. As a matter of fact this matter was heard on two days and the parties

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were heard at length and all relevant facts and circumstances have been taken into consideration. It has been stated in the Review Petition that the applicant to the Original Application has wrongly contended that he has completed seven years of continuous service and his claim for the post should have been considered for promotion and the post should not have been advertised and the post did not exist after 1984. It was only in the year 1986 the post of C.E.(C)-II was sanctioned and the earlier Recruitment Rules as amended in 1983 were abolished in the year 1984. We had taken all these facts and circumstances into consideration and thereafter arrived at a particular conclusion. We have also considered the question of composite method to be adopted for selection in consultation with UPSC which was done after taking approval from the UPSC. These facts also have been taken into consideration and we have taken the view that the method of composite method could not have been adopted. A challenge to our observation to the Recruitment Rules has been made. We have already taken into account the recruitment rules of 1983 as partly amended in the year 1985 and later on the new rules, on which the respondent no.5 relies upon, came into effect. The relevant rules as to which particular year they are applicable has also been taken into account. After taking into consideration the peculiarity of the recruitment rules we have applied the case of Y V RANGAIAH.

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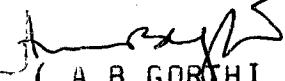
We do not find any error in our observation and all the relevant facts were taken into account and it is not correct to state that the relevant facts were ignored and certain misstatement of facts has been made. This might not have been mentioned in detail but all the considerations are there.

It has also been stated that the findings that the recruitment rules came into existence on 16.11.1990 after few days of the selection is incorrect. As a matter of fact there is not mistake in the same. Process might have started earlier but the actual selection was made thereafter and that is why the said observation has been made. We have also taken into account the fact as to whether the C.E.(C)-II was a cadre post or an ex-cadre post and what was the requisite qualification i.e., the qualification has been observed in the judgment and not what the Respondent no.5 wants us to act.

We have already taken a view that the post of C.E.(C)-II was a temporary addition to the cadre though according to the respondents unwittingly it is an in correct statement, which in our opinion is not correct. It is in the facts and circumstances of the case we have also applied the case of N B T DAVIN KATTI V. KARNATAKA PUBLIC SERVICE COMMISSION & ORS 1990(1) SCALE 659 and we do not find any error in applying the ratio of the said case to the facts of this case. The contention that the Tribunal has

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been misled with the submissions made on behalf of the applicant is also not correct or that the rules are erroneously accepted by the Tribunal is also not correct. We do not find any error much less error apparent on the face of the record and the review petition is devoid of any merit. The Review Petition No. 91/1991 is accordingly dismissed.


(A B GORAI)
MEMBER (A)


(U C SRIVASTAVA)
VICE CHAIRMAN