

(8)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
CAMP AT PANAJI

Original Application No: 333/91

Transfer Application No: -----

DATE OF DECISION 10-2-1993

Shri N.J.Joseph

Petitioner

Mr.P.J.Aggustine

Advocate for the Petitioners

Versus

Union of India and another

Respondent

Mr.G.R.Sharma

Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice S.K.Dhaon, Vice-Chairman

The Hon'ble ~~Shri~~ Ms.Usha Savara, 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 ?

No

MD

*S.K.DHAON*  
(S.K.DHAON)  
VC

NS/

9  
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH  
CIRCUIT SITTING AT PANAJI

O.A.333/91

Shri N.J.Joseph,  
NSO  
C/o.Cdr.P.J.Aggustine  
I.N.(Retd)Advocate,  
11-C, Kossambi Bldg.,  
Swatantrya Path,  
Masco Da Gama,  
Goa 403 802. .. Applicant

-versus-

1.Union of India  
through  
Secretary,  
Ministry of Defence,  
New Delhi - 110 011.

2.Chairman,  
Union Public Service  
Commission,  
Dholpur House,  
New Delhi - 110 011.

3.Chief of the Naval Staff,  
Naval Headquarters,  
New Delhi - 110 011. .. Respondents

Coram: Hon'ble Shri Justice S.K.Dhaon  
Vice-Chairman.

Hon'ble Ms.Usha Savara,  
Member(A)

Appearances:

1.Mr.P.J.Augustine  
Advocate for the  
Applicant.

2.Mr.G.R.Sharma  
Counsel for the  
Respondents.

ORAL JUDGMENT: Date: 10-2-1993  
(Per S.K.Dhaon, Vice-Chairman)

Mr.G.R.Sharma counsel for the  
respondents states that inspite of ~~our~~ order  
dt. 9-2-93 passed by us he ~~has~~ <sup>does</sup> not proposed to  
file any documents, ~~xxxxxx~~. However, he  
urges that the relevant documents ~~are~~ already  
annexed to the application and he proposes to  
rely ~~only~~ upon them. solely.

2. The applicant was recruited as an Emergency Commissioned Officer in the year 1963. On 12-12-1971, in his capacity as an Ex-Army man, he was appointed as Assistant Naval Store Officer. The appointment took place on the basis of the selection held by the Union Public Service Commission. According to the applicant, on 12-12-1971 there were eight vacancies to be filled up to the post of Asstt. Naval Store Officer. The applicant was the sole Ex-Army man. There was a quota of 25% fixed for Ex-Army men. One Nayer who had also been selected did not fulfil the requirement so as to enable him to be considered in the quota of Ex-Army Men. Nonetheless, the authority concerned in 1971 split the eight posts into two groups. The applicant was placed in the second group whereas Nayer was placed ~~top of~~ the first group. In the year 1973, a seniority roll was published. The applicant was given the seniority from the year 1966 i.e. the period spent by him in the Army was taken into account after deducting the period spent by him in the N.C.C. Thereafter two departmental promotion committees met ~~ex-conducted~~, a list was published in the year 1973 wherein the applicant was shown below Nayer, ~~in the seniority list~~. This list was published on 23-5-1973. The applicant made a representation. He was assured that justice would be done to his case. However, no positive orders were passed. Some persons other than the applicant who, according to the applicant, were similarly situated as the applicant, preferred ~~an~~ a writ petition in the High Court of Delhi

which was transferred to the Principal Bench at Delhi. That Bench, sometime in the year 1987, gave a decision upholding the view point which is now being pressed by the applicant. Thereafter in the year 1990 he preferred an O.A.86/90 before this Tribunal. This application was dismissed on 9-7-90 on the technical ground that the applicant had sought plural remedies. In fact, the applicant prayed for permission to withdraw the application. Accordingly the application was rejected as withdrawn.

3. We have heard the learned counsel for the applicant. In substance the decision taken on 12-12-1971 creating two batches and placing Nayer above the applicant is being questioned in the present application. It is apparent that the seniority between the applicant and Nayer and others interse was fixed on the basis of the ~~chart~~ drawn up on 12-12-71. Therefore, the source of trouble of the applicant is the alleged illegal or erroneous decision taken on 12-12-1971.

4. Inspite of our best efforts we are not able to persuade ourselves ~~with~~ that this application should not be dismissed on the ground that it is barred by time. The matter is pretty old. We have no alternative but to reject the application as barred by limitation.

5. The application is rejected but without any order as to costs.

*Usha Savarkar*  
(USHA SAVARKAR)  
Member (A)

*S.K. Dhaon*  
(S.K. DHAON)  
Vice-Chairman