

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 351/91 199
T.A. NO: ---

DATE OF DECISION 5-2-1992

Kulin M. Joshi. Petitioner

Mr. Sushilkumar Hilwasia Advocate for the Petitioners

Versus

Union of India and others Respondent

1. Mr. A.S. Rao for R. Nos. 1 to 4

2. Mr. S. Natarajan for R. No. 5 Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice U.C. Srivastava, Vice-Chairman

The Hon'ble Mr. M.Y. Priolkar, 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 ?

MB


(U.C. SRIVASTAVA)

mbm*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.351/91

Kulin M. Joshi,
Sanitary Inspector,
R/o Government Complex
Block No.E-9(Old)
Silvassa,
Dadra and Nagar Haveli.

.. Applicant

vs.

1. The Union of India
through
The Secretary,
Ministry of Home Affairs,
New Delhi.
2. The Administrator,
Dadra and Nagar Haveli
camp at Panaji,
Goa.
3. The Chief Secretary,
Union Territory of Daman
Diu and Dadra and Nagar Haveli,
Silvassa.
4. The Collector,
Dadra and Nagar Haveli,
5. Shri D.S.Patel,
Multipurpose Health worker,
Medical & Public Health Dept.,
Dadra & Nagar Haveli,
Silvassa.

.. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava,
Vice-Chairman

Hon'ble Shri M.Y.Priolkar, Member(A)

Appearances;

1. Mr.Sushilkumar Hilwasia,
Advocate for the applicant.
2. Mr.A.S.Rao
Advocate for
Respondents No.1 to 4.
3. Mr.S.Natarajan
Advocate for
Respondent No.5

ORAL JUDGMENT:
(Per U.C.Srivastava,Vice-Chairman)

Date: 5-2-1992

The applicant who was selected as
Sanitary Inspector from the post of B.C.G. Technician
by means of this application has challenged the order
of reversion, reverting to the post of B.C.G.
Technician and has further prayed that the action

of the Chief Secretary , i.e. respondent No.3, is arbitrary and mala fide.

2. The applicant joined the Department of Medical and Public Health at Dadra and Nagar Haveli in the year 1975 as a B.C.G. Technician. The next promotional post in the hierarchy is that of Sanitary Inspector. The Medical and Public Health Department has recommended four candidates from the feeder cadre as per their education qualification. Out of the four candidates proposed by the Medical and Public Health Department one Shri D.T. Patel was already promoted to some other post. ~~was~~ It was brought to the notice of the administration by the applicant that D.S. Patel who is impleaded as respondent no.5 has obtained Diploma in Sanitary Inspector's course from an institute which is awarding false certificate. In this connection he has also filed certain newspaper cuttings. The matter came up before the DPC and the DPC took the view that respondent No.5 is not eligible ~~and~~ for consideration as he was holding Diploma from a Institute which not recognised. So far as the applicant is concerned the DPC is of the view, and has been stated in the affidavit filed by the administration, that it was recognised by the Govt. of Nagaland, Sikkim, Manipur, Ministry of Defence in the Govt. of India etc. and consequently the applicant selected along with one Shri M.S. Rohit. Feeling aggrieved from the exclusion the respondent No.5 filed an appeal before the Chief Secretary under Rule 24 of Central Civil Service (CCA) Rules, 1965 against the selection. The Chief Secretary purporting such powers under

Rule 24 allowed the appeal and came to the conclusion that the Diploma in Sanitation obtained by the applicant has no recognition and accordingly the appointment of the applicant was cancelled and he was reverted to his original post.

3. As the applicant was duly selected by the DPC and the DPC took this matter into consideration. Without entering into this question whether the Chief Secretary had any powers in the matter of interfering with the selection and even if he had power he could not have passed an order to the detriment of the applicant without giving him any opportunity of hearing. No rule has been pointed out as to how without quashing the proceedings of the DPC a fresh review DPC could have been called for and thereafter selection has been made.

4. The contention of the applicant was that in case the Diploma is not recognised obviously the person who is junior to him, i.e. M.S. Rbhit, whose appointment has not been touched ~~and who~~ ^{was} ~~is~~ ^{not} also holding diploma from recognised institution and as such if any appointment has to be cancelled it was his appointment and not the applicant's appointment who is senior to him.

5. Obviously this is a matter which requires consideration. As the Chief Secretary exceeded his power and acted in violation of principles of natural justice the order passed by the Chief Secretary cannot be allowed to stand and the reversion order dtd. 14/17 June, 1991 is quashed and the applicant shall be restored back to his original position which was

In case the applicant is not holding recognised diploma held by him, ~~it~~ is for the administration to ~~take~~ ^{take} Diploma proceedings ~~xxxxxx~~ ~~the applicant~~ in accordance

with law in the matter after giving him an opportunity of hearing. The application is disposed of accordingly with no order as to costs.



(M.Y. PRIOLKAR)
Member(A)



(U.C. SRIVASTAVA)
Vice-Chairman

MD