

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH  
CAMP AT NAGPUR.

O.A. NO: 68/91 199  
T.A. NO:

DATE OF DECISION 15.11.1991

Shri M.M.Chaure

Petitioner

Shri P.C.Marpakwar.

Advocate for the Petitioners

Versus

Comptroller & Auditor General of India

Respondent

Shri Ramesh Darda.

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 ? Yes
2. To be referred to the Reporter or not ? No
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. Whether it needs to be circulated to other Benches of the Tribunal ? No

(M.Y.PRIOLKAR)  
MEMBER (A)

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(1)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY,  
CAMP AT NAGPUR.

Original Application No. 68/91.

Shri M.M.Chaure.

... Applicant.

V/s.

Comptroller & Auditor General of India.

... Respondent.

Coram: Hon'ble Shri Justice U.C.Srivastava, Vice-Chairman,  
Hon'ble Shri M.Y.Priolkar, Member (A).

Appearances:-

Applicant by Shri P.C.Marpakwar.  
Respondents by Shri Ramesh Darda.

Oral Judgment:-

XPer Shri M.Y.Priolkar, Member (A) X Dated: 15.11.1991.

The applicant in this case is a Section Officer in the Accountant General (Audit) I, Maharashtra, Bombay. The next promotional post is that of Assistant Audit Officer for which the eligibility condition is 3 years experience as Section Officer. The applicant's grievance is that although he has passed the Section Officer's examination in August, 1987 he was actually appointed to the post of Section Officer in December, 1987, but he has not been considered while drawing up the panel for the post of Assistant Audit Officer for the year 1991. The respondents have considered for promotion only such Section Officers who have completed three years service as Section Officer as on 1st October, 1990.

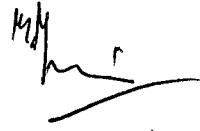
2. The learned counsel for the applicant argued that there is no requirement in the statutory rules framed by the Government that for formation of panel for a Calendar year, the requirement of 3 years qualifying experience should be fulfilled as on 1st October, of the preceding year. According to him the applicant is due to retire on super-annuation in December, 1991 and therefore, if such cut off date is fixed for eligibility for promotion, the applicant will have no opportunity of being considered at all for the promotion to this higher post of Assistant

Audit Officer.

3. The respondents have filed their written statement opposing the application. The learned counsel for the respondents has also produced a copy of the instructions issued by the Comptroller and Auditor General of India dt. 21st May, 1984 addressed to all the Heads of Departments in the Audit and Accounts Department in which it has been specifically mentioned that the crucial date for determining the eligibility criteria in the case of fresh panels to be prepared for promotion to the post of Assistant Audit Officer, may be taken as 1st October of the preceding year instead of 1st January which was the case earlier. The reason for this change has been intimated as the time necessary for preparation of seniority lists, identification of points in communal rosters and convening the meetings of DPC, etc. No doubt this modification of the cut off date to 1st October has adversely affected the applicant. But it cannot be considered as unreasonable in view of the reasons mentioned in the circular. It is inevitable that any such cut off date will cause hardships to some of the employees, who are marginally outside such date. It is seen that even for appointment to the post of Supervisor in the same Audit Department instructions exist that the crucial date for promotion during the calendar year is 1st October of the preceding year. We do not also agree with the contention of the learned counsel of the applicant that since this requirement is not specified in the statutory rules, it is not open to the department to adopt such criteria by executive instructions. It is well settled that wherever

statutory rules are silent on any point, executive instructions can be issued to supplement such rules provided such executive instructions are not in conflict with the statutory rules or do not supplement ~~ant~~ <sup>ant</sup> those rules.

In the present case the reasons why the cut off date has been shifted to 1st October, have been convincingly explained. This cut off date is also similar for promotion to the post of supervisors in the department and we do not find anything unreasonable or arbitrary in fixing the cut off date on 1st October. Therefore, we find no merit in this application. The application is accordingly dismissed. No order as to costs.



(M.Y. PRIOLKAR)  
MEMBER (A)



(U.C. SRIVASTAVA)  
VICE-CHAIRMAN

B.S.M.