

(B)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
-----

Original Application No: 764/91.

Transfer Application No:

DATE OF DECISION: 28.9.1994.

Arvindkumar Gupta. Petitioner

Shri B.Ranganathan Advocates for the Petitioners

Versus  
-----

Union of India & Ors. Respondent

Shri J.G.Sawant. Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Shri K.D.Saha, Member(A).

1. To be referred to the Reporter or not? No
2. Whether it needs to be circulated to other Benches of the Tribunal? No

  
(M.S. DESHPANDE)  
VICE-CHAIRMAN

14

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH, BOMBAY.

Original Application No.764/91.

Arvindkumar Gupta. ... Applicant.

V/s.

Union of India & Ors. ... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,  
Hon'ble Shri K.D.Saha, Member(A).

Appearances:-

Applicant by Shri B.Ranganathan.  
Respondents by Shri J.G.Sawant.

Oral Judgment :-

(Per Shri M.S.Deshpande, Vice-Chairman) Dt. 28.9.1994

By the order passed at the time of admission on 24.4.1992, the application was admitted only so far as the relief (1) para-8 of the petition which is as under :

"That the Respondents may be directed to amend the Food and Nutrition Board (Non-Secretariat Gazetted posts) Recruitment Rules, 1967 for providing 100% promotion by departmental candidates for the post of Dy. Director (Fruit and Vegetable Preservation) with retrospective effect from 26.2.1980."

The Respondents contention in this respect are to be found in paras 8 and 9 of the written statement in which it has been stated that the post of Dy. Director (F&VP) is filled up 50% by promotion and 50% by direct recruitment and it cannot, therefore, be said that the Senior Inspecting Officer (F&VP) has no promotional avenue at all. He is eligible to be considered for promotion to the post of Deputy Director (F&VP) against 50% quota meant for promotees. The Recruitment Rules in the Ministry of Food & Civil Supplies were amended on 13.8.1989 for the post of Deputy Technical Adviser after the Directorate of Fruit & Vegetable Preservation

...2.

15

was separated from them and merged with the newly formed Ministry of Food Processing Industries in July, 1988. In para 9 of the written statement it has been stated that the amendment of Recruitment Rules for various posts in the Directorate of Fruits & Vegetable Preservation is already under consideration and the exercise has already been undertaken to amend the Recruitment Rules in respect of various posts in the Directorate of Fruit & Vegetable Preservation but the amendments have not yet been finalised.

2. Shri J.G.Sawant, the learned counsel for the Respondents stated that he does not have instructions as to the progress that has been made in the direction of amendment of rules. Since the written statement was filed on 20.4.1992 ~~and~~ more than two years have passed. We have considered the prayer No.1 that the applicant has made. <sup>- In view of -</sup> The fact that the applicant has received an ad hoc promotion w.e.f. November, 1993 as Deputy Director it would be sufficient to direct the Respondents to complete the process of consideration and take a decision within three months from the date of receipt of a copy of this order.

3. With this direction, the application is disposed of. There will be no order as to costs.

  
(K.D.SAHA)  
MEMBER (A)

  
(M.S.DESHPANDE)  
VICE-CHAIRMAN

B.

18

CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

C.P. No. 171/95 IN O.A. NO. 764/91.

Dated, this Friday the 12th day of July, 1996.

CORAM : HON'BLE SHRI B. S. HEGDE, MEMBER (J).  
HON'BLE SHRI P. P. SRIVASTAVA, MEMBER (A).

Arvind Kumar Gupta,  
Sr. Inspecting Officer,  
Ministry of Food Processing Industry,  
(Fruits and Vegetables Preservations),  
Old C.G.O. Building, IIIrd floor,  
New Marine Lines, Bombay. ... Applicant  
(By Advocate Shri E. Ranganathan)

Versus

Shri N. Mohanti,  
Secretary to the Government of India,  
Ministry of Food Processing Industry,  
Panch Sheel Bhavan,  
Khelgaon Marg,  
NEW DELHI - 110 049. ... Respondent.  
(By Advocate Shri R. K. Shetty).

: ORDER :

1. Heard Shri B. Ranganathan for non-adhering the directions issued by the Tribunal vide dated 28.09.1994 wherein it is observed as follows :-

"The Learned Counsel for the respondents stated that he does not have instructions as to the progress that has been made in the direction of amendment of rules. Since the written statement was filed on 20.04.1992, more than two years have passed. We have considered the prayer no. 1 i.e. seeking direction to the respondents to amend the Food and Nutrition Board (Non-Secretariat Gazetted posts) Recruitment Rules 1967 for providing 100% promotion by departmental candidates for the post of Dy. Director (Fruit and Vegetable Preservation) with retrospective effect from 26.02.1980. The applicant has received an adhoc promotion w.e.f. November, 1993 as Deputy Director it would be sufficient to direct the respondents to complete the process of consideration and take a decision within three months from the date of receipt of a copy of this order."

...2

It is submitted by the Learned Counsel for the respondents in their affidavit that they have received the copy of the order of this Tribunal on 11.10.1994 and as per the direction of the Tribunal, decision ought to have been taken by the respondents by 11.01.1995 whereas the competent authority had taken the decision not to amend the Recruitment Rules on 26.06.1995 and thus, there was a delay of about 5½ months.

2. The contempt petition is filed by the applicant on 08.12.1995. The Secretary to the Government of India, Ministry of Food Processing Industry, has been impleaded as a party in the Contempt Petition. However, the reply to C.P. has been filed by one Shri A.K. Goyal, Deputy Secretary to Government of India, Ministry of Food Processing Industries, New Delhi, in which he has stated that he has been authorised to file the affidavit by Shri N. Mohanti, Secretary to the Government of India, Ministry of Food Processing Industry, New Delhi, who is superior in the said Ministry. When we asked the Learned Counsel for the respondents how Shri A.K. Goyal, Deputy Secretary to the Government of India, could file an affidavit when he has not been impleaded as a party in the C.P. and if so, under which rules, he was not able to show us the rules. In the reply to C.P. it is stated that Shri A.K. Goyal, Deputy Secretary to the Government of India, Ministry of Food Processing Industry has been authorised to file the affidavit by Shri N. Mohanti, Secretary to the Government of India in the Ministry of Food Processing Industry. The Learned Counsel for the respondents was also unable to explain why he has not filed any miscellaneous petition seeking extension of time for

implementing the order of the Tribunal and no satisfactory explanation has been given by the respondents in not complying with the directions of the Tribunal within the specified time. The impression given at the time of hearing the O.A. was that the Recruitment Rules are being amended and it is under consideration, therefore, the Tribunal had passed xx xx the aforesaid order.

In the circumstances, We hereby direct the respondent who is impleaded in the contempt petition to file an affidavit, both on the decision taken by the respondents in not to amend the rules and also delay in filing the affidavit by 11.10.1996. Copy of the affidavit be given to the applicant's counsel in advance. List the case on 11.10.1996 for further hearing.

3. Copy of the order be given to the parties.

(P. P. SRIVASTAVA)  
MEMBER (A).

(B. S. HEGDE)  
MEMBER (J).

os\*

order <sup>dt. 12.7.96</sup> ~~sent~~ despatched  
to Applicant's counsel (s)  
on 19.7.96

Σ  
22/7/96

Reply of Respondent to  
C.P. No-171/95 recd.  
on 30-9-96.

MS  
10/10/96

Per Tribunal

Date: 11/10/96

As there will be no Division Bench, the matter fixed on 11/10/96 before the Tribunal is adjourned for Admission hearing / directions orders / final hearing on 29/11/96

Inform the advocates / Parties accordingly.

By  
Dy. Registrar