

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 122/91

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198

DATE OF DECISION 05.3.1991

Mr. Vikram Laxmanrao Bhosale, Petitioner

Mr. D. V. Gangal Advocate for the Petitioner (s)

Versus

Union of India th. The Director Gen. Respondent
Telecom, Sanchar Bhavan, N.O. 110001. & others.

Mr. S. R. Atre, for Mr. P. M. Pradhan Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. M. Y. PRIOLKAR, MEMBER (A)

The Hon'ble Mr. T. C. S. REDDY, MEMBER (J)

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*

[Signature]

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
NEW BOMBAY

ORIGINAL APPLICATION NO.122/91

Mr. Vikram Laxmanrao Bhosale,
Security Officer,
Telecom Factory, Deonar,
Bombay.

.... Applicant

Vs.

Union of India
and others

.... Respondents

CORAM : HON'BLE SHRI M.Y. PRIOLKAR MEMBER(A)

HON'BLE SHRI T. CHANDRASHEKHAR REDDY (J)

Appearances:

MR. D.V. Gangal, Adv.,
for the applicant

MR. S.R. ATRE, Adv.,
for Mr. P.M. Pradhan,
Adv. for the Respondent.

ORAL JUDGMENT

DATE OF JUDGMENT: 5.4.1991

(PER : M.Y. Priolkar, M(A))

The grievances of the applicant in this case is that he should be considered for promotion as a Security Officer on regular basis. The applicant, presently working as Security Inspector in the Telecom Factory at Deonar, had been promoted earlier on several occasions during leave vacancies as Security Officer. His last such promotion was up to 31st January 1991.

DA 122/91

2. According to the learned counsel for the applicant, an understanding was reached between the applicant and the management, according to which it is recognised that the applicant even now continues to work as Security Officer, but he has voluntarily renounced his claim for any additional remuneration for working in that higher post. The applicant does not even now wish to claim any additional remuneration for allegedly working in the higher post.

3. When the applicant filed this application on 1.4.1991, the relief prayed for was that the impugned order dated 25.3.1991 posting one Mr. P.N. Patil, as Security Officer should be struck down and the applicant should not ^{be} reverted from the post of Security Officer. Admittedly, an Office order has since been issued clarifying that Shri Patil, Asstt. Engineer is posted as Senior Security Officer and not as Security Officer. The grievance of the applicant in this regard has, therefore, been met.

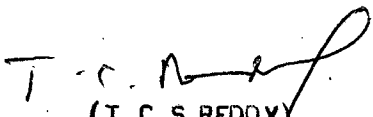
4. The grievance which still subsists is that a DPC (Departmental Promotion Committee) should be convened for regular selection to the post of the Security Officer. Shri S.R. Atré, appearing for the respondents, stated before us, that orders had already been passed by this Tribunal in O.A. 839/90 in the case of Shri P.Y. Birwatkar Vs. Chief General Manager, Telecom Factory, Bombay for filling up the post of Security Officer, in accordance with the recruitment rules dated 25.6.1971 as amended from time to time. According to Mr. S.R. Atré, a meeting of the DPC will be held within a month from today, though, since the post is reserved for ST candidate, the applicant may not be eligible for being considered for promotion to this post. The applicant's counsel disputed that this post of


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12

OA 122/91

Security Officer is reserved for ST. However, this dispute is not before us today and, therefore, we only reiterate our direction already given earlier in the other case, viz OA 839/90, that DPC should meet within one month and consider the selection to this post in accordance with the recruitment rules. The application is disposed of with this direction, with no order as to costs. We also direct that till the meeting of this DPC is held, status quo as on today regarding this Security Officer's post should be maintained.


(T.C.S. REDDY)
MEMBER (J)


(M.Y. PRIOLKAR)
MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAYBENCH

C.P. 41/91 in
O.A.122/91

Vikram Laxmanrao Bhosle,
Telecom Township, Type II,
Bldg.No.19, Room No.308,
Deonar, Bombay - 400 088.

.. Applicant

vs.

1. Union of India
through
The Director General Telecom,
Sanchar Bhavan,
New Delhi - 110 001.
2. Shri Roop Narain,
Chief General Manager,
Telecom Factory,
Deonar,
Bombay - 400 088.
3. Shri S.B.Kadam,
Personnel Officer,
Telecom Factory,
Deonar,
Bombay - 400 088.

.. Respondents

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

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

Appearances:

1. Mr.D.V.Gangal
Advocate for the
Applicant.
2. Mr.P.M.Pradhan
Counsel for the
Respondents.

TRIBUNAL'S ORDER:

Date: 3-1-1992

(Per U.C.Srivastava,Vice-Chairman)

This Contempt Petition has been filed against our order dtd. 5-4-91. The application was finally disposed of with certain directions. The respondents were directed to hold the DPC within one month and consider the selection to the post in question in accordance with the recruitment rules. The applicant in the contempt petition has stated that the order passed by ~~the~~ this Tribunal has been flouted

by the respondents inasmuch as they have issued an order dtd. 26-6-1991 promoting one Shri S. Vidwans as Security Officer for a period of one month in violation of the Tribunal's Order and the applicant has impleaded one Mr.S.B.Kadam, according to him who is instrumental for flouting the Tribunal's order.

2. This C.P. came up for ^{consideration} ~~hearing~~ before a Division Bench earlier on 16th July, 1991. The Bench after looking into the record found that the DPC met itself on 5-4-91 and the Bench was accordingly took the view that there was thus no contempt as x the DPC had ^{met} ~~taken~~ within a period of one month.

3. Regarding the other directions that by order dtd. 26-6-1991 the respondents disturbed the status quo as on 5-4-91 which was also one of the direction the Bench observed that there is no violation of the order dt. 5-4-91.

4. Regarding the third part of the order that the selection to the post in question in accordance with the recruitment rules the Bench looked into the matter and observed that it cannot be finally disposed of unless O.A.358-91 is disposed of.

5. So far as the other two parts are concerned the learned counsel for the applicant ^{if} contended that ~~the~~ respondents could have informed the Tribunal on the very date that DPC is going to ^{it is possible that} meet on the very date ~~this~~ direction that DPC should meet within one month may not have been given. We do not find any substance in the contention. Learned counsel then contended that it was an


order.


interim order. When the Bench was fully competent to take a particular view has already taken a view so far as the two directions are concerned there is no contempt. We cannot sit in a judgment over an order passed by the Bench, nor we disagree with the same.

6. So far as the third direction is concerned the said O.A. was finally disposed of on 12-8-1991 with a direction that the said post of Security Officer shall be treated as an unreserved post and quash and set aside any arrangements made by the respondents to make appointments to it on any other basis. The Bench further directed that if the respondents wish to make appointments against the said post they shall do it in accordance with the rules applicable to unreserved posts.

7. We have gone through the DPC proceedings which took place thereafter on 26-9-1991. They were of the view that although it was a reserved post but in view of the direction given by the Tribunal it will be treated as unreserved post. Names of the three candidates including that of applicant were considered. According to the DPC two of them were considered not suitable and it appears that the applicant is considered suitable but in view of the fact that disciplinary proceedings are pending against him his name has not ^{been} recommended. Thus the directions given by the Tribunal in that case has also been complied with and it cannot be said that any contempt has been committed by the respondents.

8. The contempt petition in these circumstances has ~~to~~ got to be dismissed. It is accordingly dismissed and the respondents are discharged with an observation that it is desirable that the disciplinary proceedings should be completed at the most within a period of two months from the date of communication of this order.


(M.Y. PRIOLKAR)
Member(A)


(U.C. SRIVASTAVA)
Vice-Chairman

MD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

MUMBAI BENCH, MUMBAI.

Pronounced this the 7th day of Jan 1997.

Coram: Hon'ble Shri B.S.Hegde, Member(J),
Hon'ble Shri M.R.Kolhatkar, Member(A).

Contempt Petition No.85/96
and
Miscellaneous Petition No.831/96
in
Original Application No.122/91.

V.L.Bhosle,
Telecom Township,
Type II, Bldg. No.8,
Room No.123, Deonar,
Mumbai 400 088.
(By Advocate Shri D.V.Gangal)
V/s.

... Applicant.

1. Shri Roop Narain
the then Chief General Manager,
Telecom Factory, Deonar,
Mumbai - 400 088.
2. Shri A.K.Pradhan,
Chief General Manager,
Telecom Factory, Deonar,
Mumbai - 400 088.
3. Shri C.P.Saxena,
Manager,
Telecom Factory, Deonar,
Mumbai - 400 088.
4. Shri S.B.Kadam,
Personnel Officer,
Telecom Factory, Deonar,
Mumbai - 400 088.
5. Shri S.C.Garg,
Director - I (Admn.),
Telecom Factory, Deonar,
Mumbai - 400 088.
(By Advocate Shri S.S.Karkera)

O R D E R

{Per Shri M.R.Kolhatkar, Member(A)}

This is a Contempt Petition in O.A. No.122/91
decided on 5.4.1991. The grievance in that O.A. was that

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he should be considered for promotion as a Security Officer on regular basis in the office of the Respondents No.1 to 3. The Tribunal noted that the grievance subsisting on the date of decision was that the DPC should be convened for regular selection to the post of Security Officer and the O.A. was disposed of by a direction that the DPC should meet within a period of one month and consider the selection to the post in accordance with the Recruitment Rules.

2. The applicant had earlier filed C.P. No.41/91 in the same O.A. which was decided on 3.1.1992. The said Contempt Petition was disposed of with the following directions :

"We have gone through the DPC proceedings which took place thereafter on 26.9.1991. They were of the view that although it was a reserved post but in view of the direction given by the Tribunal it will be treated as unreserved post. Names of the three candidates including that of applicant were considered. According to the DPC two of them were considered not suitable and it appears that the applicant is considered suitable but in view of the fact that disciplinary proceedings are pending against him his name has not been recommended. Thus the directions given by the Tribunal in that case has also been complied with and it cannot be said that any contempt has been committed by the Respondents."

In view of the above, the Contempt Petition was dismissed.

3. The present C.P. has been filed in view of subsequent developments viz. that the departmental inquiry against the applicant was concluded by an order dt.21.8.1996 (at page 34) exonerating the applicant from all charges. The applicant then made ^{AA} representations on 2.9.1996 stating that he had been

recommended by DPC and therefore having been exonerated he is entitled for back-dated promotion and arrears w.e.f. 1989. There has, however, been no response from the Respondents, hence this C.P., in which it is prayed that Respondents should be held and declared to have committed Contempt of Court and be punished for the same and any further orders. In the M.P. No.831/96 the applicant has made a grievance that he has been called for shift duty and this action of the Respondents is mala fide and that order should be quashed until the C.P. is decided.

4. The Respondents have filed their reply both to the Contempt Petition, as well as, to the Miscellaneous Petition. In reply to the C.P., the Respondents have stated that they had conducted DPC in accordance with the Rules on three occasions viz. 26.6.1991, 26.9.1991 and 16.8.1993. The Respondents had already reported the results of the first DPC to the Tribunal in C.P. No.41/91 in O.A. No.122/91. In the subsequent DPC the applicant was not found suitable for the post. The respondents have further stated that a fresh DPC will be held shortly. In reply to the M.P. No.831/96 the Respondents have stated that the shift duties are allotted to all Inspectors according to rotation and there is no question of granting the protection to the petitioner.

5. At the argument stage the counsel for the Contempt Petitioner (original applicant) contended that he was found fit for the post of Security Officer by the DPC in 1991, that the results of subsequent

DPCs are irrelevant, that the result of 1991 DPC was not implemented only because of the departmental proceedings against the applicant and since the applicant has now been exonerated, the Tribunal should direct the department to act on the results of the DPC held in 1991.

6. We have considered the matter. ~~So~~ far as the results of DPC of 1991 are concerned, ~~the~~ same were noted by us in the earlier C.P. 41/91 in O.A. 122/91. We cannot deal with any grievance of the applicant in relation to that DPC by way of a fresh Contempt Petition. According to us C.P. has no merit and the same is therefore dismissed. M.P. 831/96 is also dismissed.

M.R. Kolhatkar

(M.R. KOLHATKAR)
MEMBER (A).

B.S. Hegde

(B.S. HEGDE)
MEMBER (J)

B.