

9

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 739/91.

~~XXXXXXXXXXXXXXXXXXXX~~

DATE OF DECISION: 6.1.95

Shri B.B. Dhole & Another Petitioners

Shri D. V. Gangal, Advocate for the Petitioners

Versus

Union Of India & Others, Respondents


Shri V. S. Masurkar, Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri B. S. Hegde, Member (J).

The Hon'ble Shri P.P. Srivastava, Member (A).

1. To be referred to the Reporter or not ?
2. Whether it needs to be circulated to other Benches of the Tribunal ?


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

(10)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. NO.: 739 OF 1991.

Shri B. B. Dhepe & Another ... Applicants

Versus

Union Of India & Others ... Respondents.

CORAM :

Hon'ble Shri B. S. Hegde, Member (J).

Hon'ble Shri P. P. Srivastava, Member (A).

APPEARANCE :

1. Shri D. V. Gangal,
Counsel for the Applicant.
2. Shri V. S. Masurkar,
Counsel for the Respondents.

JUDGEMENT :

DATED : 6.1.95

{ Per. Shri B. S. Hegde, Member (J) }

1. The applicant has filed this application under Section 19 of the Administrative Tribunals Act, 1985 for non promotion to the post of Foreman by the Departmental Qualifying Examination conducted by the Naval Dockyard. Aggreived by the Order dated 23.10.1991, (Annexure-O) wherein the Respondents have intimated that with reference to his representation, as a technical supervisory staff borne in Naval Armament Inspectorate, Bombay are on All India Roster under DNAI, New Delhi, for promotion purpose, they are not eligible to appear in the Departmental Promotion Examinations controlled

(11)

by the Admiral Superintendent, Naval Dockyard, Bombay. Hence, the Respondents could not take any action on the basis of his representation. Thereby, he filed this application.

2. The applicant is a Diploma Holder in General Course in Engineering. Initially, two applicants have filed this O.A., one by the applicant and one by Shri C. C. Gupta, who was working as a Senior Chargeman (Mechanical), who has been promoted to the post of Foreman (Mechanical) with effect from 20.12.1989, thereby, he has withdrawn from contesting this O.A. Initially, the applicant was appointed as an Apprentice in Naval Dock Yard on 18.02.1978 and completed his training on 30.03.1981. Thereafter, he has been appointed as Highly Skilled Worker Grade-I and posted at Naval Dock Yard, Bombay. While he was working in Naval Dockyard, he was allowed to appear in the examination held in the year 1985, conducted by the Naval Armament Inspectorates (Respondent No. 4) and on his selection, he was promoted to the post of Senior Chargeman (Mechanical) with effect from 27.10.1986 (Annexure-F). Pursuant to his promotion to the post of Chargeman (Mechanical), he has been relieved on 01.12.1986, so as to enable him to take up the appointment of Senior Chargeman in the Naval Armament Inspectorates (Annexure-G). It is made clear in the appointment letter that the individual should be on probation for a period of two years from the date of his appointment as Senior Chargeman (Mechanical). They are liable for service at any place in India, as required by the exigencies of service and will also be governed by Field Service

Liability Rules.

3. The main contention of the applicant is that, he had appeared for the Departmental Qualifying Examination for the post of Foreman and he has successfully gone through the said examination and was declared 'Passéd' in the said qualifying examination in the year 1988. The Respondent No. 2, being a Controlling Authority for all the civilians in Western Naval Command Services, has within his rights for any Departmental qualifying examination whether he works in the Naval Dock Yard or in the Naval Armament Inspectorate. The Respondents vide their letter dated 14.05.1991 issued Dockyard Notice No. 39/91 calling for applications from those who are willing to appear for the Departmental Qualifying Examination for promotion to the next higher grade, both industrial and non-industrial staffs. It is clear from Annexure-L, which states that the Departmental Qualifying Examination in various grades/Trades of both Non-Industrial and Industrial Staff will be held during December 1991. In so far as Non-Industrial Staffs are concerned, Senior Chargeman to Foreman, he must complete one year regular service in the grade in the case of departmental promotees and 2 years probationary period in the case of direct recruits as on 31.12.1991. It is also made clear that applications from these Industrial Categories of Staff borne in Units, other than Dockyard, are to be forwarded in the format prescribed vide Headquarters, Western Naval Command, Bombay, etc. The contention of the applicant is that, the Dockyard circular was circulated

13

amongst all the industrial and non-industrial staff, inviting applications to appear in the Departmental Qualifying Examination for promotion to the next higher grade. Pursuant to the said circular, the applicant applied for appearing in the said examination for the next higher grade. Though the Respondents published the notice dated 25.09.1991, declaring the list of candidates to appear in the said Departmental Qualifying Examination, the applicant's name was not there. He made^a/representation to the Respondents and his representation is turned down in Annexure-O vide dated 23.10.1991 stating that he is not eligible to appear for the said examination.

4. The respondents, in their reply, negated the contention of the applicant. They have stated that the applicant is working in Naval Armament Inspectorate, Bombay and his service condition is governed by the Government Gazette Notification SRO 300 NAVY GROUP 'C' non-industrial and in turn Naval Armament Inspection Organisation, which is an All India Roster Cadre. It has its own departmental promotion examination and these examinations are conducted every year by Naval Headquarters; whereas, the Supervisory Staff working in Naval Dockyard, Bombay, are governed by SRO 291 of 20.10.1983 titled Navy Group 'C' (Technical Supervisory Staff) Recruitment Rules, 1983 and amended by SRO 279 of 1985 and SRO 158 of 1991. It is an undisputed fact that the applicant, who is an employee of Naval Armament Inspection have applied for a Departmental

Qualification Promotion Examination of Naval Dockyard to which they do not belong. This particular examination for which the applicant has applied, is being conducted by the Naval Dockyard for promotion of the departmental candidates who comes under the command roster. The applicant, in the year 1985, has applied for the post of Senior Chargeman (Mechanical), which was filled by Direct Recruitment as per SRO 300 and was selected. The applicant, who appeared for the said examination, was not a Departmental Qualifying Examination but was a test to select the suitable candidate for direct recruitment. Therefore, he was not promoted to the post of Senior Chargeman (Mechanical) but appointed to the existing vacancy in the Naval Armament Inspectorate. It is apparent that Naval Dockyard Order No. 31 of 1991 is meant for employees of Command Roster and the applicants do not come under Command Roster, hence, they are not eligible. As a matter of fact, the Respondents vide their order dated 14.08.1978 under the Navy Order No. (Civ) 7/1978 framed the "SYLLABI AND RULES IN THE DEPARTMENTAL PROMOTION EXAMINATION FOR SUPERVISORY STAFF IN THE NAVAL DOCKYARD AND BASE REPAIR ORGANISATION" and not the recruitment rules, as stated by the applicant. Therefore, it is clear, that this aforesaid Naval Order pertains to only syllabi and Departmental Promotion Examination for Supervisory Staff in Dockyard and Base Repair Organisation and this is not the order to control and conduct the departmental examination for all civilian employees.

5. We have heard the arguments of the Learned Counsel for the parties and have perused the pleadings.

It is clearly evident from the above, that the applicant was appointed for the Naval Dockyard initially. He was selected to the post of Senior Chargeman (Mechanical) in the Naval Armament Inspectorate on direct recruit quota, thereby, he ceases to be the employee of the Naval Dockyard. In this connection, it is clear from the departmental circular No. 39 of 1991 that it is meant for those who are willing to appear in the Departmental Qualifying Examination for promotion to the next higher grades both industrial and non-industrial. However, it is made clear in Annexure-L that applications from these industrial categories of staff borne in units, other than Dockyard are to be forwarded in the format prescribed vide Headquarters, Western Naval Command, Bombay. Admittedly, the applicant do not come within the industrial category. He comes within the non-industrial staff. Therefore, he cannot take advantage of the circular issued by the Naval Dockyard that he should be allowed to appear in the Departmental Qualifying Examination. However, the Chargeman working for the Naval Armament Inspectorate and Naval Dockyard, is not one and the same. In the Naval Dockyard, the work relates to repairs of ship and manufacture of ships and the works of the Chargeman has a specialised field, whereas; in the Naval Armament Inspectorate, the work of a Chargeman cannot be treated same as that of the Naval Dockyard, here the work is that of inspection. It is clear from the respective S.R.O.s furnished by the Respondents that the applicant is governed by the S.R.O. 300 vide dated 20.11.1981 whereas the Group 'B' Non-

(16)

: 7 :

Industrial Staff of Naval Armament Inspectorate are excluded for promotion in the Naval Dockyard vide its Order dated 04.10.1979. SRO 291 clearly applies to Naval Dockyard employees. During the course of hearing, the Learned Counsel for the Respondents have been directed to furnish the Navy Order No. (Civ) 7/78, a copy of which has been furnished by the Respondents Counsel. On perusal of the same, we find that it contains the "Syllabi and Rules in the Departmental Promotion Examination for Supervisory Staff in the Naval Dockyard and Base Repair Organisation for Indian Navy." The eligibility for the Foreman post envisages that Candidates can appear for examination to the higher grade after they have completed the period of probation in the existing grade, etc. In SRO 291, it is specifically stated that (Technical Supervisory Staff) Recruitment Rules 1983, for the post of Foreman, which is by selection, 80% by promotion failing that by direct recruitment and 20% by direct recruitment - Senior Chargeman with 3 years regular service in the grade and who have passed in a departmental qualifying test to become eligible for consideration for promotion. The minimum qualifying marks shall be 60% aggregate. Therefore, it is clear from the above, that the applicant is not eligible to appear for the Departmental Qualifying Examination published by the Naval Dockyard. He can seek his avenue of promotion in the department in which he is working i.e. Naval Armament Inspectorate and he ceases to have any link with the Naval Dockyard, on the basis of his initial appointment, which is clear from the fact that his colleague, Shri C. C. Gupta, who has

17

appointed as Foreman in the Naval Armament Inspectorate and not in Naval Dockyard.

6. In the light of the above, we do not see any merit in the O.A. and there is no infirmities in the order passed by the Respondents vide dated 23.10.1991. Accordingly, the O.A. is dismissed. There would be no order as to costs.



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



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

os*