

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
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Original Application No: 411/91

~~Transfer Application No:~~

DATE OF DECISION: 8.2.95

The Govt. Shipping Office Non- Petitioner  
gazetted Staff Association & Anr.

Shri D.V. Gangal Advocate for the Petitioners

Versus  
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Union of India & Others Respondent


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

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

The Hon'ble Shri M.R. Kolhatkar, 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)

(12)

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. NO. 411/91

The Government Shipping Office  
Non-gazetted Staff Association  
& Another

... Applicants

v/s

Union of India & Others

... Respondents

CORAM :

- 1) Hon'ble Shri B.S. Hegde, Member (J)
- 2) Hon'ble Shri M.R. Kolhatkar, Member (A)

APPEARANCE :

- 1) Shri D.V. Gangal, counsel for the Applicants
- 2) Shri J.G. Sawant, counsel for the Respondents

JUDGEMENT

DATED:

8.2.95

(Per: Hon'ble Shri B.S. Hegde, M(J))

1. In this O.A., the Applicants have challenged the letter issued by the Respondents vide dated 17th May 1991 - Annexure 'A' - conveying the decision of the Ministry regarding abolition of certain posts in the offices of the Shipping Master, Bombay and Calcutta and the offices of Directorate of Seamen Employment, Bombay and Calcutta. The impugned order was also issued to the Director General of Shipping, Bombay, which is the Head Office of Shipping Master and Director, Seamen's Employment Office in Bombay and Calcutta.

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In view of the said letter, certain posts specified therein have been abolished with immediate effect. Accordingly, the Applicants approached this Tribunal with this O.A. and challenged that the aforesaid impugned order is illegal and the same is required to be quashed and also questioned the authority of the 2nd Respondent to abolish the posts on the basis of the report of the Senior Analyst. While abolishing the posts, the Respondents also stated that those incumbents holding post which are abolished by the Ministry may be declared as surplus and necessary action may be taken to re-deploy them in accordance with the instructions contained in the D.O.P.T.'s O.M. dated 1-4-1989 which envisages declaration of surplus staff and detailed instructions about their re-deployment through the Surplus Cell to offices wherever there may be vacancies. As per that, normally even after declaration of staff as surplus, the concerned staff continue to work in the same office and continue to draw same salary till actually they are re-deployed and absorbed in another office.

2. During the course of hearing, we have gathered from the learned counsel of the parties that most of the incumbents whose posts have been abolished have been re-deployed by the Surplus Cell in one office or the other by the Government of India. As such, the learned counsel for the Applicants has suggested that he would give correct picture after ascertaining from the Applicants whether all of them have been re-deployed in terms of the O.M. referred to above. The only contention of the Applicants in this O.A. is that the

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abolition of the posts by the Respondents is wrong and not justified and the Senior Analyst's report is not based on true facts as against which the Respondents have contended that the abolition of posts was necessary in view of the 'norms study' conducted by the Internal Work Study Unit and the view of all concerned, including the Shipping Master, Bombay, Staff Association in the Shipping Master's Office, Bombay as well as Director General's Office, Bombay were considered. Therefore, it cannot be said that the decision of the abolition of the posts is in any way arbitrary. It is not correct on the part of the Applicants to contend as to how many posts are to be retained and what posts are to be abolished and it is for the competent authority to take into consideration the relevant factors while taking a proper decision. It has come on record that the number of seamen both in Calcutta as well as in Bombay has come down considerably and keeping in view the Internal Work Study report, the Respondents have taken appropriate action and are deploying the persons who are jobless in accordance with the O.M. referred to above.

3. The Respondents have also taken preliminary objection. In terms of Section 19 of the Administrative Tribunals Act 1985, "only a person aggrieved can file an application before the Tribunal. The Government order abolishing certain posts does not ipso facto become cause for any grievance. Only if any individual is actually terminated or relegated in status by any

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consequential order, then that individual will have cause of action and not otherwise. As stated earlier, Government has several options to deal with staff of where posts are abolished. There may be scope for re-deployment within the Department or through Surplus Cell." In the circumstances, the application filed by the Applicants is a premature one and the same is required to be dismissed. The figures submitted by the Shipping Master, Bombay is inflated figures about requirement of staff; it is not for him to decide how many staff to be retained and how many posts to be abolished by the Respondents. In the instant case, the abolition of posts have occasioned on account of the internal work study by the Finance Ministry and on their recommendations the Respondents have taken an appropriate decision. As a matter of fact, the Applicants have not challenged the Senior Analyst's report submitted by the Internal Study Unit except stating that the abolition is not correct.

4. Even assuming that the grounds in the present Application are applicable to the Applicants (in fact, not), "when a post is temporary, the abolition of such post raises no problem because appointment to a temporary post confers no right upon the employee to hold that post. Hence, Article 311(2) is not plainly attracted when such employee is simply 'discharged' on the abolition of the post. However, a controversy may arise from the abolition of a permanent post, because on appointment of such post, the employee

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acquires a legal right to hold until any of certain contingencies take place. It is now settled that even in the case of a permanent post, Article 311(2) is not attracted because abolition of a post for administrative exigencies is the exclusive concern of the executive, but the question whether such person who loses his job as a result of abolition of post should be rehabilitated by giving an alternative employment is a matter of policy on which the Court has no voice which has been held by the Supreme Court in Rajendran v/s State of Tamil Nadu, A. 1982 SC 1107."

5. After hearing the rival contentions of the parties, we are satisfied that there is no malafide or arbitrariness in the action taken by the Respondent No. 2 in abolishing the posts and the contention of the Applicants is not based on any documentary proof. Therefore, we are of the view, that there is no merit in the O.A. and the same is required to be dismissed. Accordingly, the O.A. is dismissed with no order as to cost.

*M.R. Kolhatkar*

(M.R. Kolhatkar)  
Member (A)

*B.S. Hegde*

(B.S. Hegde)  
Member (J)

ssp.