

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

Proounced 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 ^{A9} 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.F., 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.F., 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)

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