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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 124/91

XXXXXX XXXXXXXX XXXXXXXX

DATE OF DECISION 4.1.1994

Shri S.S.Birhade Petitioner

Shri D.V.Gangal Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Shri R.K.Shetty Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri N.K.Verma, Member (A)

The Hon'ble ~~Shri~~ Smt.Lakshmi Swaminathan, Member (J)

1. ~~whether Reporters of local papers may be allowed to see the Judgement?~~
2. To be referred to the Reporter or not ?
3. ~~whether their Lordships wish to see the fair copy of the Judgement?~~
4. ~~whether it needs to be circulated to other Benches of the Tribunal ?~~

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J)

N.K.Verma
(N.K.VERMA)
MEMBER (A)

NS/

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

(11)

OA.NO. 124/91

Shri Subhash Sadashiv Birhade

... Applicant

v/s.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Member (A) Shri N.K.Verma
Hon'ble Member (J) Smt. Lakshmi Swaminathan

Appearance

Shri D.V.Gangal
Advocate
for the Applicant

Shri R.K.Shetty
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 4.1.1994

(PER: N.K.Verma, Member (A)

Shri Gangal for the applicant brought the facts before the Tribunal that the applicant, S.S.Birhade was put on merit list for appointment as Supervisor 'B' (Tech) at Ambernath along with Respondent No. 3 and others. The persons who were above him did not join and he therefore became No. 1 in that merit list. His Police Verification Report was delayed in receipt and in the meantime Respondent No. 3 who was next to him was given an appointment in that grade and was also made senior to him in the Gradation List. The fact of this appointment being delayed due to late receipt of PVR came to his notice only in 1989 on which he made a representation followed by this OA.

2. We heard both Shri Gangal and Shri Shetty, learned counsel for the respondents at length. The only objection which was strenuously argued by Shri Shetty was the laches on the part of the applicant in not agitating this matter earlier when the cause of action was in 1989. Apart from

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that, written statement filed by the Department also indicated that the merit rating system came into force in Government of India and establishments in Ordnance Factories in the year 1984 only. While we take a liberal view on the position of latches on the part of the applicant in the matter, we are constrained to object to this type of wrong statement made by the respondent. We are distressed to observe that though respondents in this OA. were the Union of India through Director General, Ordnance Factory Board and the General Manager of the Ordnance Factory, Ambernath, the written statement giving wrong information from the respondents has come at the level of Works Manager, Ordnance Factory, Ambernath ~~is~~ ^{Without} even indicating if he was duly authorized by Union of India (D.G.O.F.) or General Manager, Ambernath to file the reply on their behalf. We would like that this observation of the Tribunal should be brought to the notice of the authorities concerned in the Union of India so that corrective action will be taken by the respondents for submission of proper and ~~not~~ verifiable written statements.

3. After having heard both the sides, we are persuaded to accept this application. The applicant may be given the seniority from the date his junior, Respondent No. 3 was given and he should be placed above the Respondent No. 3. However, there shall be no payments of wages or allowances ~~so~~ for that period. After the recasting of the seniority list, all consequential benefits will be given to him on merits. No order as to costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J)

N.K. Verma
(N.K. VERMA)
MEMBER (A)

Date: 30.1.95 (Contd.)

We have given our anxious consideration to the position and we must say that the order is not very clear and it must have presented a considerable difficulty to the respondents in considering what was really intended to be given to the applicant. As we read the order it is apparent that the main direction was only to confer notional seniority on the applicant because he was higher in the merit list than the Respondent no.3, though Respondent no.3 came to be appointed earlier. This error was sought to be corrected. It is in this context that the direction of the Tribunal that there shall be no wages and allowances shall have to be read. The consequential benefits were to be given only after recast of the seniority.

Since the respondents have recast the seniority persuant to the order of the Tribunal and as stated in Annexure to the application gave monetary benefits from 4.1.1994 i.e., the date of the judgment, we do not think that there was any wilful disobedience on the part of the respondents. We see no merit in the contention of the applicant in the C.P.

The C.P.No. 126/94 is dismissed.

Yours
P.P. Srivastava
Member (A)

Yours
(M.S. Deshpande)
Vice Chairman

dt 30/1/95
order/Judgement despatched
to Applicant/Respondent(s)
or 13/2/95

Yours
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