

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

C.P.NO. 132/95
in
OA.NO. 286/92

Shri S.N.Misra & Anr.

... Applicants

V/s.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Member (J) Shri B.S.Hegde
Hon'ble Member (A) Shri P.P.Srivastava

Appearance

Shri M.S.Ramamurthy
Advocate
for the Applicants

Shri V.S.Masurkar
Advocate
for the Respondents

Tribunal's Order

Dated: 18.12.95

(PER: P.P.Srivastava, Member (A))

OA.No. 286/92 was decided by this Tribunal's
order dated 5.11.1993 and the operative portion of
the judgement reads as below :-

"In the result, the application succeeds. Respondents 3 to 5 are not entitled to count their ad hoc service in the post of Executive Engineer (Electrical) for seniority, confirmation, promotion, etc. The impugned order dated 6.2.1992 as also the revised seniority list published on 20.2.1992 are quashed and set aside, and if, based thereon, any benefits of promotion etc. have been given to Respondents 3 to 5, such benefits shall be withdrawn by Respondents 1 and 2 within three months from the date of receipt of a copy of this order. There will be no order as to costs."

2. The private respondents No. 3 to 5 in the OA. approached the Supreme Court through an SLP and the Hon'ble Supreme Court vide their order dated 3.3.1994 granted ad-interim stay of the part of the judgement of this Tribunal dated 5.11.1993. The order of the Supreme Court reads as under :-

"It is brought to our notice that the Union of India has filed an SLP in respect of the same order and that SLP is not yet numbered. Office is directed to examine the papers and if the papers are in order to put up them along with this case within three weeks from today.

Meanwhile, there will not be any reversion."

3. The respondents department implemented the part of the judgement by their order dated 16.3.1994 which is placed at Exhibit 'C'.

4. The respondents later on revised the seniority list of Assistant Engineers(Electrical) through a review DPC in April, 1995 and as a consequence also to revise seniority list of Executive Engineers(Electrical) from 1979 onwards till 1988. The respondents are also holding a review DPC on the basis of revised seniority list which was circulated vide their letter dated 13.9.1995 which is placed at Ex.'D'. The applicants have submitted that through the review DPC the respondents contemners are circumventing the judgement of this Tribunal dated 5.11.1993. They are seeking to regularise the private respondents 3 to 5 in the post of Executive Enineer (Electrical) from the date of their adhoc working.

This is in total violation of Tribunal's judgement dated 5.11.1993 wherein the Tribunal had ordered that adhoc service will not count in respect of Respondents No. 3 to 5. The applicants have also brought out that the respondents are also seeking the appointment of Applicant No. 2 in the grade of Superintending Engineer. By their order dated August, 1995 placed at Ex. 'E' wherein the promotion of the Applicant No. 2, i.e. Pradeep Varshney has been ordered upto 30.9.1995.

5. The respondents have brought out that the Tribunal's judgement has been fully complied with as directed by the Tribunal and the seniority list dated 20.2.1992 has already been cancelled by the department's order dated 16.3.1994 as well as department's order dated 6.2.1992 has also been cancelled in terms of the letter dated 16.3.1994 which has been attached by the applicant as Exhibit 'C'.


6. The respondents have also brought out that adhoc service rendered by any officer in Executive Engineer (Electrical) grade has not been taken into account while fixing the seniority in the Executive Engineer post.

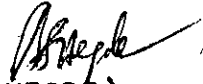
7. The respondents have also brought out that the three private respondents in OA.NO. 286/92, i.e. Shri M.K. Shanmugham, Boota Singh and G.R. Pande have been granted deemed date of regular appointment in Executive

Engineer (Electrical) Grade in the seniority list dated 13.9.1995 in consonance with the orders passed by the Supreme Court on 1.8.1994 in the SLP filed by the Union of India against the Tribunal's judgement in the said OA.. The provisional seniority list dated 13.9.1995 (placed at Annexure R-2) has been drawn on the basis of quota of vacancies between promotees and the direct recruits. It is also brought out by the respondents that this provisional seniority list has been circulated and the officers concerned can submit their representation and objections to this provisional seniority list.

8. We have considered the matter. We are satisfied that the respondents have complied with the judgement by their order dated 16.3.1994 when the respondents cancelled the department's order dated 6.2.1992 and the revised seniority list dated 20.2.1992. The revised seniority list which has been issued by the respondents on 13.9.1995 is based on the basis of quota of vacancies between the direct recruits and the promotees and the question of quota of vacancies for the purpose of promotion between direct recruits of Assistant Engineer (Electrical) and the promotees Assistant Executive Engineer was not a matter in OA.NO. 286/92. May be the applicants are aggrieved by this seniority list, however, within the narrow frame work

of consideration if a contempt has been committed of the judgement of this Tribunal in OA.NO. 286/92, we are of the opinion that respondents have not committed any contempt of the Tribunal's judgement. If the applicants are aggrieved by the provisional seniority list dated 13.9.1995, they may take action as permitted under law. The Contempt Petition is dismissed.


(P.P.SRIVASTAVA)
MEMBER (A)


(B.S.HEGDE)
MEMBER (J)

mrj.