

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NOS. 310/92 and 314/92 199
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DATE OF DECISION 12-10-92

Mr. C P Patil & V R Naik (OA 310/92)
& G R Mane & A S Shinde (OA 314/92) Petitioner

Mr. P. Sankaranarayanan Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Mr. Ranganathan, for Advocate for the Respondent(s)
Mr. JJP. Deodhar

CORAM:

The Hon'ble Mr. Justice S K Dhaon, Vice Chairman

The Hon'ble Mr. M Y Priolkar, Member (A)

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 ?

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, "GULESTAN" BUILDING NO.6
PREScot ROAD; BOMBAY-1

OA Nos. 310/92 & 314/92

1. Mr. C P Patil
Controller of Imports & Exports
Office of Joint Chief Controller
of Imports & Exports;
New CGO Building; New Marine Lines
Churchgate; Bombay 400020

2. Smt. V R Naik
Controller of Imports & Exports
Office of Joint Chief Controller
of Imports & Exports;
New CGO Building; New Marine Lines
Churchgate; Bombay 400020

Applicants in
O.A. No. 310/92

1. G T Mane
Controller of Imports & Exports
Office of Joint Chief Controller
of Imports & Exports; CGO Building
New Marine Lines; Churchgate;
Bombay 400020

2. A S Shinde
Controller of Imports & Exports
Office of Joint Chief Controller
of Imports & Exports; CGO Building
New Marine Lines; Churchgate;
Bombay 400020

Applicants in
O.A. No. 314/92

v/s.

1. Union of India
through Secretary
Ministry of Commerce
Udyog Bhavan
Maulana Azad Road
New Delhi 110011

2. The Chief Controller of Imports
& Exports (Administration)
Office of the Chief Controller
of Imports & Exports; Udyog Bhavan,
New Delhi 110001

3. The Joint Chief Controller of
Imports & Exports; New CGO Bldg.,
New Marine Lines; Churchgate;
Bombay 400020

4. S P Sharma
Deputy Controller of Imports
and Exports; New CGO Building;
New Marine Lines; Bombay 400020

..Respondents
in both OAs

Coram: Hon. Shri Justice S K Dhaon, V.C.
Hon. Shri M Y Priolkar, Member(A)


ORAL JUDGMENT:
(Per: S K Dhaon, Vice Chairman)

DATED: 12-10-92

In these OAs the respondents are the same.

The controversy raised in these applications is also similar. We are, therefore, disposing of the two applications by a common order.

The applicants had been promoted on ad hoc basis in the post of Controller of Imports and Exports on 6.11.1989 in respect of applicants in OA No. 310/92. Similarly the applicants had been promoted on ad hoc basis in the post of Controller of Imports and Exports on 23.10.1987 in respect of applicants in OA No. 314/92. They have been working on this post since then. An order was passed on 17.2.92 that they would stand reverted to their original post with effect from 31.3.92. At that stage they approached this Tribunal with these OAs.

The principal prayer is that it may be declared that the applicants had been appointed on permanent basis to the post of Controller of Imports & Exports with effect from their initial ad hoc appointment.

A reply has been filed on behalf of the respondents. The averments are these. The post of Controller of Imports & Exports is a promotional post, 50% of the posts are meant to be filled by direct recruitment and the remaining 50% are [redacted] meant to be manned by the departmental candidates

by promotion. All the appointments are to be made with the approval of the Union Public Service Commission. In the year 1987 and 1989 when the applicants were promoted there were no vacancies in the post to be filled up by promotion of the departmental candidates. Since necessary steps had not been taken for filling up the remaining 50% of posts by direct recruitment, the applicants were promoted on ad hoc basis for time being. A proposal is before the appropriate authority to convert all the posts of Controller of Imports and Exports as promotion post through the promotion of the departmental candidates. The decision is awaited. Meanwhile steps have not been taken to fill up the post by direct recruitment. In any view of the matter, the applicants have no right to the post of Controller of Imports and Exports as they are liable to be reverted to the original post if and when the direct recruitment takes place.

The applicants, in our opinion, are not entitled to any relief. We have gone through the decision of the STATE OF HARYANA V. PIARA SINGH & ORS. 1992 AIR SCW 2315 on which great reliance has been placed by the learned counsel for the applicants. This case has no relevance to the controversy before us. The case referred to is for initial appointment on ad hoc basis. We have no doubt that the respon-

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dents would not revert the applicants so long as
✓suitable persons are not appointed, ⁱⁿ the post
held by them, by direct recruitment, or so long
as a ~~policy~~ decision is taken that all the posts
are converted as promotion posts and thereafter
steps are taken for the approval of the Union
Public Service Commission to fill up the posts
in accordance with law. It goes without saying
that, if it is decided that all the ~~posts~~ are
to be fill~~l~~up by promotion, the cases of the
applicants ~~shall~~ be considered on ~~merits~~ and in
accordance with law.

With these directions these two
applications are dismissed, but without any
order as to costs.


(M Y Priolkar)
Member(A)


(S K Dhaon)
Vice Chairman