

(5)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6  
CAMP: NAGPUR

OA Nos. 453/92  
457/92  
470/92 &  
477/92

- |                  |                           |
|------------------|---------------------------|
| 1. N.F. Meshram  | Applicant in<br>OA 453/92 |
| 2. W.L. Astankar | Applicant in<br>OA 457/92 |
| 3. R.T. Lande    | Applicant in<br>OA 470/92 |
| 4. S.A. Pathan   | Applicant in<br>OA 477/92 |

V/s.

1. Union of India  
through its Secretary  
Department of Telecommunication  
New Delhi
2. The Superintending Engineer  
Telecom, Civil Circle  
Bombay 22
3. The Executive Engineer  
Telecom, Civil Division  
Nagpur 1
4. Chief Engineer  
Telecom, Civil M H Circle  
Bombay

Respondents

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

APPEARANCE:

Ms. Sulekha Kumbhare  
Counsel  
for the applicants

Mr. Ramesh Darda  
Counsel  
for the respondents

ORAL JUDGMENT:  
(Per: M.S. Deshpande, Vice Chairman)

DATED: 19.7.93

We had granted permission to the applicants to amend the prayer clause. The amendment which the applicant desires to make in the prayer clause is that since the applicant was working in the capacity of Assistant Mason from 1987 he is entitled to be absorbed with retrospective effect with all the benefits includ-

ing arrears of wages. The prayer in the Original Applications is for a direction to the respondents to accord sanction to the post of workcharged establishment as the act of respondents is not in accordance with the sanction of the posts of work charged est. manual of CPWD.

2. The applicant contended that he was working as a Beldar and later as Assistant Mason and has also passed the trade test. A vacancy arose because of exit of Ramteke<sup>at</sup> and the applicant had been working in that post, therefore, he is entitled to the post of Assistant Mason. The entire position is denied by the respondents. The applicant has produced an extract of diary in order to show that the applicant was working as an Assistant Mason. Though the extract shows that some work was done by the applicant it nowhere indicated the designation of the applicant. The extract will have to be understood in the context of the respondents plea that the applicant was working as Beldar and used to assist the Mason and that he was never an Assistant Mason. We have <sup>carefully</sup> read the contention raised by the respondents in the written statement and from the contention raised before us it is apparent that due to bifurcation of Postal Civil Division and Telecom.Civil division in the year 1987 the post of Mason was transferred to Postal Civil Division. There is nothing on record to doubt this statement of the respondents that at present there is no post of Assistant Mason and that the applicant was not working as Assistant Mason. The respondents had only asked the applicant's willingness for going to Bombay as Assistant Mason and the applicant's reply shows that he has not given his willingness to go to Bombay and hence he could not be promoted.

3. IN OA No.457/92 which is heard together with OA No. 453/92, document no.1 which is a xerox of the diary relating to the applicant describes the applicant as Temporary Mason. But that is before the entries regarding <sup>the</sup> work which Astankar had done. As we have already pointed out this is consistent with the plea that the applicant was a Beldar but did the work temporarily as mason. In the absence of substantive orders or other cogent material which would lead to the inference that Astankar was working as temporary mason, we see no merit in the application.


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4. In respect of R T Lande, the applicant in OA 470/92 no such designation is to be found in the extract of the diary.

5. In respect of S A Pathan, the applicant in OA 477/92 also no such designation is to be found in the extract of diary.

6. In the circumstances, we find that the applicants are not entitled to any relief. All the four OAs are dismissed.

  
(M Y Priolkar)  
Member(A)

  
(M S Deshpande)  
Vice Chairman