

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 481/92

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DATE OF DECISION 24-1-94

Shri Anil Laxman Ghodake Petitioner

Shri B.Ranganathan Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

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

CORAM:

The Hon'ble Shri M.R.Kolhatkar, 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 ? *yes*
- ~~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 ? *No*

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J)

M.R.Kolhatkar
(M.R.KOLHATKAR)
MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 481/92

Shri Anil Laxman Ghodake

... Applicant

V/S.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Member (A) Shri M.R.Kolhatkar
Hon'ble Member (J) Smt.Lakshmi Swaminathan

Appearance

Shri B.Ranganathan
for Shri S.R.Atre
Advocate
for the Applicant

Shri R.K.Shetty
Advocate
for the Respondents

JUDGEMENT

Dated: 24th Jan. 1994.

(PER: Lakshmi Swaminathan, Member (J))

The applicant in this case is not challenging any particular order passed by the respondents but is actually challenging the inaction on the part of the respondents to appoint him to the post of Peon for which an interview had been held on 15.5.1989. The respondents have admitted that the applicant along with other persons had been considered for appointment against Group 'D' post in the office of Respondent No. 4, namely, A.C.D.A. P.A.O.(ORS) A.C.(R), Ahmednagar which is an office under the Ministry of Defence and that an interview was held on 15.5.1989. According to them, however, the final selection/approval of the competent authority has not been obtained so far. The applicant has sought a direction to the respondents that he may be granted an appointment to the post of Peon as and when ^avacancy arises prior to any other person being appointed to this post who has not been selected in the interview held in 1989.

2. The applicant has relied on a decision of this Tribunal in OA.6/88 along with 4 other applications decided on 7.11.1990 in B.N.Wagh vs. Union of India & Ors. (OA.NO. 6/88) and Makhan Singh & Ors. vs. Union of India & Ors. (1992) 21 ATC 54. In B.N.Wagh's case, where the facts are similar to the present case, the Tribunal held that in view of the instructions of the Ministry of Home Affairs (Deptt. of Personnel & A.R.) Estt. dated 8.2.1982 in regard to the validity of a panel of candidates who had been selected, it was observed that the applicants were entitled to preferential claims over those selected later. The Tribunal, therefore, directed that subject to the other conditions for employment being fulfilled, the applicants were entitled to appointment against existing and future vacancies against the post to which they were empanelled and the fact that they might have become over-age at the time of appointment will not be a bar to their appointment.

3. The learned counsel for the respondents has taken the following pleas, namely, that since the applicant was only recommended for selection in the interview held on 15.5.1989 and he has no right to be appointed, the application is barred under Section 21 of the Administrative Tribunals Act, as well as on the ground that ^{the} Tribunal has no jurisdiction to entertain the application. In view of the Government's instructions regarding the validity of selection panel, we are satisfied that this application cannot be rejected on the ground of limitation. Further, having regard to the provisions of Section 14 of the Administrative Tribunals Act 1985, it is well settled that this Tribunal has jurisdiction to determine claims of persons for recruitment to the post under the Government. This has also been held in the decision in B.N.Wagh's case (supra). Therefore, both these preliminary objections stand rejected.

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4. On the merits of the case, the learned counsel for the respondents submitted that after the interviews were held in 1989 by Respondent No. 4, the position of vacancies in the office was ^{re}viewed and it was decided that the recruitment process for making appointments in Group 'D' posts from the open market ^{need not be completed.} In this respect, the learned counsel referred to a letter from the office of CGDA, New Delhi dated 30.4.1990 on the question of regularisation of casual labourers as Group 'D' employees. It was his contention that since there was surplus casual labourers in other regions, e.g. Meerut, they were required to adjust them against existing vacancies in other areas. In this way, he submitted that there was no possibility of issuing any appointment letter to the applicant at this stage. He has also stated that no other candidates from the panel interviewed in 1989 have been appointed so far.

5. The learned counsel for the respondents was not able to show the present position of the vacancies pertaining to Group 'D' posts in their various offices. It cannot be expected that in a large organisation like that of the respondents no further vacancies of Group 'D' posts have arisen after April, 1990. It is also not the case of the applicant that he should be appointed forthwith in the post of Peon, which is a Group 'D' post in the office of Respondent No. 4. Having regard to the various decisions of the Supreme Court and this Tribunal followed in the decisions referred to above, we, therefore, direct that ^{subject to availability of vacancies} if the applicant is found medically fit and fulfils the other conditions for the post, he should be appointed ⁱⁿ as Group 'D' post in the office of Respondent No. 4 before any other person is interviewed or recruited from a subsequent panel.

6. With this direction, the application is disposed of with no order as to costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J)

M.R. Kolhatkar
(M.R. KOLHATKAR)
MEMBER (A)