

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 785/92

~~Transfer Application No:~~
~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~

DATE OF DECISION 31.3.1993

S. Sugunan Petitioner

Mr. DV Gangal Advocate for the Petitioners

Versus

U.O.I. & 3 ors. Respondent

Mr. V S Masurkar Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice M S Deshpande, Vice Chairman

The Hon'ble Shri Ms. Usha Savara, 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 ?


V.C.

NS/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY 1

OA NO.785/92

S. Sugunan
102/2 NAD Karanja
Uran, Dist.Raigad 400704

Applicant

V/s

1. Union of India
through Chief of Naval Staff
Naval Headquarter
South Block,
New Delhi--1

2. The Director
Civilian Personnel
Naval Head Quarters
Sena Bhavan, New Delhi 11

3. The General Manager
NAD Gungate, Bombay 23

4. Shri S K Munjewar
Senior Foreman of Factories
NAD Karanja
103/1 NAD Colony; Uran
Dist. Raigad

Respondents

Coram: Hon.Shri Justice M S Deshpande, Vice Chairman
Hon. Ms. Usha Savara, Member (A)

APPEARANCE:

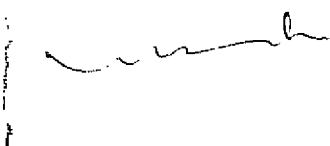
Mr. D V Gangal
Counsel
for the applicant

Mr. V S Masurkar
Counsel
for the respondents

ORAL JUDGMENT:

(Per: M S Deshpande, Vice Chairman)

DATED: 31.3.1993



The only question which arises for consideration is whether there was a single vacancy to which reservation as prescribed by item 2.1 of Chapter 2 of the Brochure on Reservation of Scheduled Castes/Scheduled Tribes in services would apply.

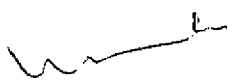
2. Two posts of Assistant Armament Supply Officer had fallen vacant ^{to be filled} and under the apportionment made vide Col. 11 of the Annexure to the Gazette of India notification. According to the note published on page 696 of Gazette of India dated December 27, 1969 the posts of Assistant Armament Supply Officer were to be filled in the following manner:

Promotion:

From the following grades with 3 years service in the respective grades rendered after appointment thereto on a regular basis and with the reservation of posts indicated against each grades:

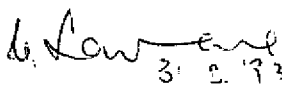
- (1) Senior Foreman of Laboratory failing which Foreman of Laboratory - 30%
- (2) Senior Foreman of Factory failing which Foreman of Factory - 30%
- (3) Senior Foreman of Stores failing which Foreman of Stores - 20%
- (4) Office Superintendents - 20%


According to the respondents, since there were two vacancies available one of them could be reserved. This position is disputed on behalf of the applicant, who belongs to the category of Senior Foreman, Factory i.e., category 2, along with respondent no.4 who also falls in the same category. Respondent no.4 belongs to the Scheduled Caste and has been selected was at serial no.5 and junior to the applicant who was at Sr.No.1. K V Rao, who was selected belongs to Laboratory stream and was selected for the other vacancy.



The only question is whether, in view of the apportionment in Col. 11, there was a single vacancy or more than one vacancy. If the apportionment was to be given effect the consequence would be that out of the two vacancies one would go to the Factory stream and the other to the Laboratory Stream. If the stream wise reservation are to be made, then it was not permissible for the respondents to say that there were two posts. Obviously there was no integrated seniority list and K V Rao, who belonged to the Laboratory Stream came to be selected in view of his seniority in that stream. We are not impressed with the submission of the respondents that there were two vacancies and one of it was reserved under item 2.1 of appendix 2 of the Brochure. For all purposes there was a single vacancy and it could not have been reserved. The applicant was, therefore, entitled to be considered for that vacancy.

Since the respondent no.4, who was served, is absent, only the learned counsel for Respondent nos.1 to 3 was heard. In the result we quash the order promoting the respondent no.4 Shri S K Munjewar which was passed on 30.7.1992 (Annexure A to the application) and direct the respondents nos. 1 to 3 to consider the present applicant when this vacancy is to be filled, by treating the particular vacancy as a ^{solitary} ~~solely~~ unreserved vacancy. The authorities will hold a DPC and complete the process of promotion within three months from to day. No order as to costs.


3.2.93
(Ms. Usha Savara)
Member(A)


(M S Deshpande)
Vice Chairman

Not dt.
of 1

2-11-13

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

C.P. NO. 90/93

IN

OA NO. 785/92

S. SUGUNAN.

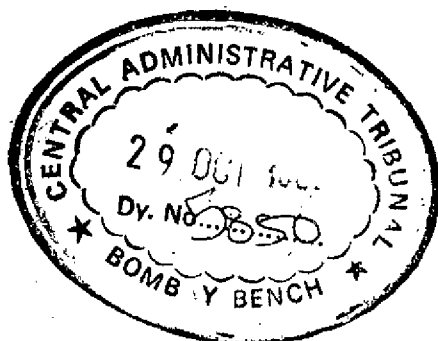
APPLICANT

V/s

UNION OF INDIA & OTHERS.. RESPONDENTS.

I N D E X

Sl. No.	Annexures	Particulars	Page No.
1.	--	Written Reply on behalf of the Respondents dated this. 29. day of Oct., 1993.	1 to 5
		LAST PAGE	5



(Vinay S. Masurkar)
Addl. Cent. Govt.
Standing Counsel for
Respondents.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

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O.A. NO. 785/92

S. SUGUNAN.

.. APPLICANT

V/s

UNION OF INDIA & OTHERS.

.. RESPONDENTS.

WRITTEN REPLY ON BEHALF OF
THE RESPONDENTS

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I, A. Mital, General Manager, having my office at Naval Armament Depot, Gun Gate, Naval Dockyard, Bombay-400 023, do hereby state on solemn affirmation as under :-

1. That I have been authorised to file this reply on behalf of the respondents.
2. That I am acquainted with the facts and circumstances of the case, in my official capacity.

Contd.!!(2)

3. That I have gone through the contents of the contempt petition and reply is as under :-

4. With reference to para 1 of the C.P., I say that the contents therein are substantially correct.

5. With reference to para 2 of the C.P., I say that the averment made in this para is partly admitted. It is correct that the Hon. Tribunal granted three months time to implement the judgement in the OA. However, the respondent filed an MP in OA No. 785/92 for extending the period of implementation of the judgement and the Hon. Tribunal has pleased to grant the extension for three months on 16 Jul 93 and stand over the case to 25 Oct 93.

6. With reference to para 3 of the C.P., I say that the contents therein are substantially correct. However, the respondents are to obtain the advice of various Govt agencies such as Min. of Def, DOP&I and Min of Law before implementing the judgement or otherwise. This is a time consuming process and the judgement of the Hon. Tribunal can only be implemented after obtaining clearance from all the above agencies and as such the holding of post of AASO by Shri Munjawar can not be treated as illegal, pending a final decision taken by the respondents.

Contd...(3)

7. With reference to para 4 of the C.P., I say that the OA has been filed subsequent to the promotion of Shri SK Munjawar and as such his promotion was not subject to the decision of the OA *ibid*. However, after, filing of the OA *ibid* the promotion has become subject to not only the judgement of the CAT(B) but also the decision of the Govt agencies stated above in preceeding para. The cancellation of promotion order of Shri Munjawar or otherwise will only be decided after obtaining the decision of the Govt. agencies quoted above.

8. With reference to para 5 of the C.P., it is true that the responsibility for executing the judgement is ~~mx~~ of respondent 1 and 2. However, being the matter of policy on reservation of SC & ST and of public interest litigation the respondent 1 and 2 are bound to seek the approval of Min of Def, DOP&T and Min of Law to implement the judgement of the CAT(B) or otherwise. As far as holding of DPCs etc is concerned, it is submitted that the action has been taken according to the rules in force. The respondents have not will fully avoided to implement the judgement. In fact, the respondents have taken timely steps to implements the judgement or otherwise by processing the case with competent

Contd...(4)

agencies of the Govt.

9. With reference to para 6 of the C.P., I say that the respondents are filing SLP in the supreme court against the judgement of the CAT Bombay Bench in OA No.785/92. However, the respondents are not bound to implement the said judgement latest by 30 Jun 93. In view of the extension for three months granted by the CAT (PB) to implement the judgement in MP No.476/93.

10. With reference to para 7 of the C.P., the averment made in this para are false and baseless. Since the respondents have not committed contempt or willful disobedience of the orders of the Hon Tribunal. In fact the respondents have taken all necessary and timely action to implement the judgement of the Hon Tribunal or otherwise.

In the aforesaid circumstance, I respectfully submit that the respondents have not committed any contempt of courts, since after the receipt of the copy of judgement, timely actions have been taken and therefore present contempt petition be dismissed with costs.

BOMBAY.

Dated this 29 day of Oct., 1993.


(A. MITAL)
GENERAL MANAGER
FOR RESPONDENTS

Contd... (5)

V E R I F I C A T I O N

I, A. Mital, General Manager, having my office at Naval Armament Depot, Gun Gate, Naval Dockyard, Bombay-400 023, do hereby state on solemn affirmation that whatever is stated in reply to the application is true to my personal knowledge and belief as revealed from the perusal of the official record on the subject and also state that no material aspect has been suppressed.

BOMBAY.

Dated this 29th day of Oct., 1993.


(A. MITAL)
GENERAL MANAGER
FOR RESPONDENTS.


(Vinay S. Masurkar)

Addl. ~~Exec~~ Cent. Govt. Standing
Counsel for Respondents.