

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-38.

Dated: 16 FEB 1994

APPLICATION NO(s) 806/93

APPLICANTS:

M. Shivaappa vs. see. M/o. Defense
TO.
1. Sri. A.S. Natesan, No. 23, 4th Block
Cheenai Cherk Road 0088, Shivaaji-
Nagar Bus Stand, Behenil St Mores
Church, Bangalore -51.

2 Sri. M.S. Ramaswamy, Senior Counsel
for Central Govt, High Court Building
Bangalore.

3 The Secretary, Ministry of Defense,
Govt of India, New Delhi
4 The Director General, EME (EME)
Army Head Quarters DPA DHQ D.O.
New Delhi.

5 The Commander, Takashiki Group
Warden over Yenbik Engineering Mulyapalya
Head Quarters Telecommunications Group (EME)
Delhi Court -10

6 The Commandant, 515 Army Base
Work Shop, Alsoor, Bangalore.

SUBJECT:- Forwarding of copies of the Orders passed by
the Central Administrative Tribunal, Bangalore.

-XXX-

Please find enclosed herewith a copy of the
ORDER/STAY ORDER/INTERIM ORDER/, Passed by this Tribunal
in the above mentioned application(s) on 1.2.94.

Issued
17/2/94

cc

SC Show -
for DEPUTY REGISTRAR 16/2
JUDICIAL BRANCHES.

gm*

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

ORIGINAL APPLICATION No.806/93

TUESDAY, THIS THE 1ST DAY OF FEBRUARY, 1994.

SHRI JUSTICE P.K. SHYAMSUNDAR .. VICE CHAIRMAN

SHRI T.V. RAMANAN ... MEMBER (A)

M. Shivappa,
Token No.2675,
Working as Tradesman Mate,
515, Army Base Workshop,
Ulsoor, Bangalore - 560 008. ... Applicant

(By Advocate Shri A.S. Natarajan)

Vs.

1. The Secretary,
Ministry of Defence,
Government of India,
New Delhi.
2. The Director General,
E.M.E.(E.M.E. Civil),
Army Head Quarters,
D.HQ P.O., New Delhi.
3. The Commander,
Takaniki Group Vaidut aur
Yantrik Ingineeyari Mukhyalaya,
Head Quarters Technical Group (E.M.E.),
Delhi Cantt-10.
4. The Commandant,
515, Army Base Workshop,
Ulsoor, Bangalore-560 008. ... Respondents

(By Advocate Shri M.S. Padmarajaiah)
Central Govt. Sr. Standing Counsel.

ORDER

Shri Justice P.K. Shyamsundar, Vice Chairman.

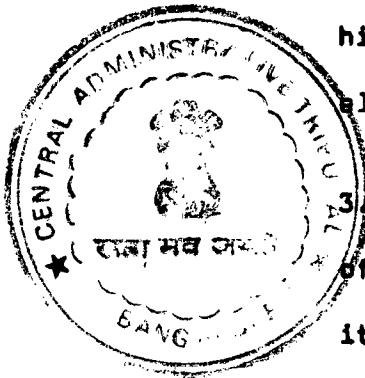
Admit.

Having heard both sides, it becomes clear the applicant has acquired the required eligibility and is entitled to make a demand for promotion as Tradesman. But, the department submits

in its objection statement that notwithstanding the same, i.e., the applicant acquiring the eligibility stamp, promotion to the higher cadre depended on the availability of vacancies. In that behalf, they have come with this application and have told us that some people have been promoted during the pendency of the application No.54/92 which came to be pronounced on 11.8.1992. During the pendency of the application, a proposal was said to be made to the applicant asking to withdraw the application or else to go without promotion. This is a submission made across the Bar. But, in the meanwhile, it transpires whatever that may be, the order of promotion made in favour of others were withdrawn and the position now is nobody is promoted as Tradesman. The applicant, who has acquired the eligibility badge after having passed some test on the basis of which he becomes eligible to be considered for promotion. We, therefore, direct the department to consider the claim for promotion subject to ascertaining whether the applicant has actually passed the promotion test or not. We do not see in such a case how the department can plead want of vacancy for promoting the applicant. But, that ofcourse, it is a sheer contentious issue. **We will not take for granted that statement for the aforesaid reason, but make it clear that if there are vacancies available and if the applicant is found suitable for manning the higher post and has also acquired the prescribed eligibility, the department will do well to consider his case for promotion along with others who may be similarly eligible.**

3. With this observation, this application stands disposed off finally. Whatever is required to be done in compliance, let it be done within a period of three months subject however to

TRUE COPY availability of vacancies.



Sealed on 16/2
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Sd/-
T. V. RAMANAN
MEMBER(A)

Sd/-
V. P. K. SHYAMSUNDAR
VICE CHAIRMAN