

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: GULESTAN BUILDING

6, PRESCOT ROAD, MUMBAI - 400 000

ORIGINAL APPLICATION No. 179/1993

THURSDAY, THIS THE 8TH DAY OF JULY, 1999

SHRI JUSTICE S. VENKATARAMAN .. VICE CHAIRMAN

SHRI S.K. GHOSAL .. MEMBER (A)

Sharad Eknath Phansekar,
S/o Eknath Phansekar,
Aged 45 years,
Assistant, Seepz, Bombay,
O/o the Development Commissioner,
SEEPZ, Government of India,
Ministry of Commerce, Andheri (East),
Bombay - 400 096. .. Applicant

(By Advocate Shri E.V. Bukhari)

Vs.

1. Development Commissioner
SEEPZ, Bombay,
O/o the Development Commissioner,
SEEPZ, Government of India,
Ministry of Commerce, Andheri (East),
Bombay - 400 096.

2. Mrs. Mani Jayaprakash Kulkarni,
Aged 39 years,
O/o the Development Commissioner,
SEEPZ, Government of India,
Ministry of Commerce, Andheri (East),
Bombay - 400 096. .. Respondents

(By Standing Counsel Shri V.S. Masurkar for R-1
and Shri Suresh Kumar for R-2)

O R D E R

Shri S.K. Ghosal, Member (A) :

The applicant is aggrieved by the impugned order

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at Exhibit 'F', dated 31.7.1992, issued on behalf of the official Respondent, i.e., the Development Commissioner SEEPZ, Government of India, Bombay. Under that impugned order, the official Respondent has regularised the adhoc appointment of the applicant to the post of Assistant with effect from 3.8.1992.

2. The case of the applicant is that he should have been declared as regularised in the post of Assistant with effect from 20.2.1982 and that he should have been considered as senior in the category of Assistants to Respondent No.2, i.e., Mrs. Mani Jayaprakash Kulkarni, who had joined the organisation, i.e., the office of the Development Commissioner, SEEPZ, Government of India, Bombay, originally as a Receptionist on 27.11.1981.

3. It has been contended on behalf of the applicant that since he was appointed as Statistical Assistant, though on adhoc basis, with effect from 20.2.1982 and continued thereafter either as the Statistical Assistant or in the higher post of Assistant Security Officer for some time ~~and~~ ^{then as} as the Licencing Assistant till 2.8.1992, thus, working continuously at that level, though on an adhoc basis, for about 8 years, when the Departmental Promotion Committee (DPC for short) met and found him fit for regularisation at that level, his adhoc service with effect from 20.2.1982 should also have been regularised and in that event he would have been senior to the second

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Respondent. The applicant has prayed for the following reliefs :

- a) To call for the records and proceedings of this case of the applicant from the office of the Respondent and after going through the legality, validity and propriety of the same, quash and set aside the impugned date of the regularisation of the applicant on the post of Assistant as 3.8.1992 and declare that the applicant is regularised on the post of Assistant with effect from 20.2.1982.
- b) To direct the Respondent to publish the seniority list of the staff employed at SEEPZ, specially for the post of Assistants, on which posts the applicant is working continuously since 20.2.1982 and further direct the Respondent to place the applicant at Serial No.1 of the Seniority List of Assistants for further promotion.
- c) To quash and set aside the decision of the Respondent of re-designating the post of Receptionist as Assistant.
- d) That pending the hearing and final disposal of the application, to restrain the Respondent from effecting any further promotions without publishing the seniority list for the staff employed under him.
- e) Ad-interim reliefs in terms of (d) above.
- f) Pass any other or further orders as may be deemed necessary, fair and proper on the facts and circumstances of the case.
- g) Award costs of the application.

4. The Respondents have opposed the relief sought by the applicant. The official respondent has explained that the applicant was promoted only on an adhoc basis as a Statistical Assistant with effect from 20.2.1982 till 3.8.1983, that he was appointed again on an adhoc

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basis as an Assistant Security Officer from 4.8.1983 till 21.8.1984 and thereafter as a Licencing Assistant from 22.8.1984 till 2.8.1992. The Respondents do admit that the applicant has thus continuously worked in those posts on an adhoc basis for about 8 years. However, they have specifically pointed out that it was only after the Recruitment Rules for Assistants were published on 27.3.1987 that steps could be taken for convening the DPC and for considering the candidates for promotion/appointment on a regular basis as Assistants.

5. In this context, the Respondents have clarified that because the organisation was initially manned with people who came on deputation or transfer and since those officials came from different departments, in the process of evolving a certain degree of uniformity in treating these officials, considerable time had to be spent and therefore, the DPC could meet only on 31.7.1992, ~~the~~ to select ⁴⁹ persons to fill up four posts of Assistants. The Respondents have further averred that the applicant was one of those four selected persons. Since 31.7.1992 was ^{Q 49} Friday, the DPC met on the next working day, i.e., on 3.8.1992 and decided that regularisation of all the four persons selected by them would be effective from 3.8.1992.

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6. We observe from the reply statement filed by the official Respondent that the post of Statistical Assistant and that of Licencing Assistant were in the scale of pay of Rs.425-600/- and Rs.425-640/- till these two posts were redesignated^{as respectively} along with the other two posts of Assistant, Librarian and Receptionist into a common cadre of Assistants carrying the pay scale of Rs.425-700/- (pre-revised); whereas the later two posts of Assistant Librarian and Receptionist were already in the scale of pay of Rs.425-700/-. This position has not been denied by the applicant. We also find that the 2nd Respondent was recruited as a Receptionist on a regular basis by following the mode of recruitment prescribed for that post, i.e., by calling for applications from candidates sponsored by the Employment Exchange. The applicant has not denied that the 2nd Respondent was so appointed. When the above four posts of Statistical Assistant, Licencing Assistant, Assistant Librarian and Receptionist came to be amalgamated into a common cadre of Assistants, it was perfectly in order for the official Respondent to place the Receptionist, i.e., the 2nd Respondent who had already been appointed as a Receptionist on a regular basis with effect from 27.11.1981 to the scale of pay ^{as made applicable later to as} ~~of~~ the redesignated cadre of Assistant, i.e., Rs.425-700/-, above the position assigned to the applicant

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who came to be appointed on an adhoc basis to the post of Statistical Assistant with a lower scale of pay with effect from 20.2.1982.

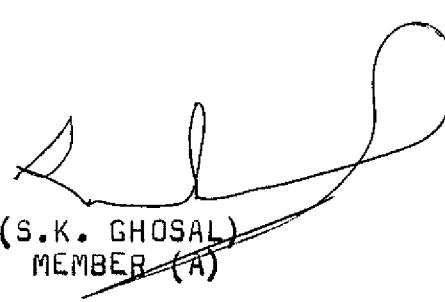
7. We, therefore, find that the grievance of the not applicant that the 2nd Respondent should/have been placed above him and assigned a higher position of seniority vis-a-vis him in the redesignated common cadre of Assistants is without any foundation.

8. As regards his claim that his adhoc services should have been regularised with effect from 20.2.1982, it is clear that he had not been so appointed in terms of any prescribed Recruitment Rules and, in any case, for having been appointed on an adhoc basis as a Statistical Assistant with effect from 20.2.1982, he cannot lay any claim for regularisation at the post of Assistant which was on a higher scale of pay of Rs.425-700/- with effect from the same date, i.e., 20.2.1982. We have also noted the reasons as to why the official Respondent could not convene the BPC meeting immediately after the Recruitment Rules for redesignated cadre of Assistants came into force in 1987. The redesignation of the four posts into a common cadre of Assistants also took place only in 1988. We cannot, therefore, find fault with the Official Respondent for having unduly delayed the consideration of the

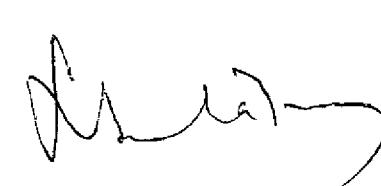
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case of the applicant along with similarly placed officials for regularisation at the redesignated post of Assistant earlier than 1992.

9. In the light of the detailed discussions made, we are unable to find any merit in the present O.A. The O.A. is therefore, dismissed. No costs.



(S.K. GHOSAL)
MEMBER (A)



(S. VENKATARAMAN)
VICE CHAIRMAN

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