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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 292 OF 1993.

~~Transfer Application No~~

DATE OF DECISION: SEPTEMBER 14, 1995.

Narayan T. Hiratkar & 8 Others, Petitioners

Shri V. S. Yawalkar, Advocate for the Petitioners

Versus

Union Of India & Others, Respondents

Smt. Indira Bodade, Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Shri P. P. Srivastava, Member (A).

1. To be referred to the Reporter or not ? — Yes.
2. Whether it needs to be circulated to other Benches of the Tribunal ? — No.


(M. S. DESHPANDE)
VICE-CHAIRMAN.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

CAMP : NAGPUR

ORIGINAL APPLICATION NO.: 292 OF 1993.

Shri Narayan T. Hiratkar & 8 Others ... Applicants

Versus

Union Of India & Others ... Respondents.

CORAM :

Hon'ble Shri Justice M.S. Deshpande, Vice-Chairman.

Hon'ble Shri P. P. Srivastava, Member (A).

APPEARANCE :

1. Shri V.S. Yawalkar,
Counsel for the applicant.
2. Smt. Indira Bodade,
Counsel for the respondents.

ORAL JUDGEMENT

DATED : SEPTEMBER 14, 1995.

¶ PER.: SHRI M. S. DESHPANDE, VICE-CHAIRMAN ¶

1. The nine applicants by this application seeks a direction to the respondents to regularise them as Inspector Of Works Grade-III in the payscale of Rs. 1400-2300 from 01.01.1986 i.e. from the date of up-gradation of the post of Sub-Overseers/Works Mistries and to assign them proforma seniority from 01.01.1986 together with all benefits.

2. The nine applicants were appointed as Sub-Overseers/Works Mistries between 11/1979 ^{and} 05/1980 in the scale of Rs. 380-560. The hierarchy comprises of Sub-overseers/Works mistries, I.O.W. Grade-III - Rs. 425-600, Inspector Of Works Grade-II Rs. 550-750, Inspector Of Works Grade-I Rs. 700-900. After the 4th Pay Commission gave the upgradation, the pay scales of the Sub-Overseers/Works Mistries were raised to

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Rs. 1400-2300 which was also the pay scale given to the Inspector Of Works Grade-III. The contention of the petitioners is that, since equivalent pay scales have been given to the Sub-Overseers/Works Mistries and Inspector Of Works Grade-III, there is no need to continue the selection process for bringing them on par with the Inspector Of Works grade-III because the duties/responsibilities of the Inspector Of Works Grade-III and Sub-Overseers/Works Mistries are the same.

3. The respondents on the other hand contend that there is a selection process which involves a written test and an interview for filling the post of Inspector Of Works Grade-III and 25% of the vacancies in that grade were reserved for S.O.M. and 75% for direct recruits through the regular Recruitment Board. For the selection to 25% of the post, the candidates are to appear for the written test and viva-voce test. Out of the present applicants, two persons i.e. applicant no. 2 and 5 appeared for the test held on 20.03.1992 and failed. Four out of them appeared at the test held at Nagpur and failed, while the remaining three were from Jabalpur, who also appeared at the test and failed. It is also contended that the test was held in 1986 for which all the applicants had appeared and failed. They deny that the duties/responsibilities of the post of Sub-Overseers/Works Mistries and Inspector Of Works Grade-III are identical and that the applicants are not entitled to the relief claimed.

4. On behalf of the applicants, reliance was placed on the circular dated 26.11.1989 where at item no.1.3 the duties and the responsibilities of Inspector Of Works Grade-III and Sub-Overseers/Works Mistries have been stated as follows :-

"He will be responsible for the execution of works entrusted to him. He will also be responsible for keeping the records of men and materials used on the works and also to assist the I.O.W. in the discharge of his functions."

There is a separate item no.1.2 which relates only to Inspector Of Works and provides as follows :

"He will be responsible for inspection of structural assets to find out the repairs required, placing work orders on Zonal Contractors, distribution of labour among his AIOs/Works Mistries, supervision of work, preparation of bills, time-keeping, store-keeping, etc."

The submission based on item no. 1.3 that the duties are identical cannot be accepted in view of the greater responsibilities and duties imposed on Inspector Of Works in item no. 1.2 cited above. It is noteworthy that this distinction existed when there were different pay scales upto 01.01.1986 prescribed for Sub-Overseers/Works Mistries and Inspector Of Works Grade-III. It is not contended by the applicants that the nature of duties have now changed from 01.01.1986 and have become identical merely by the replacement of the previous scale by a common pay scale of Rs. 1400-2300.

5. Even the learned counsel for the applicant did not dispute the position that even before 01.01.1986 there was a selection process which involved written test as well as viva-voce test for the sub-Overseers/Works Mistries to be promoted to the post of Inspector Of Works Grade-III. All the applicants had appeared for the earlier tests held in 1986 and 1992 and were not successful. It is obvious that the test showed that they were not suitable

at that time for being promoted to the post of Inspector Of Works Grade-III. Merely because an equivalent pay scale has been prescribed there cannot be a parity of work and responsibilities between the Sub-Overseers/ Work Mistries and Inspector Of Works Grade-III. These are two different categories and if the applicants wanted to be included in the category of Inspector Of Works Grade-III, they cannot do so without passing the prescribed test. This they have not done.

6. In the result, we see no merit in this application and it is dismissed.



(P. P. SRIVASTAVA)
MEMBER (A)..



(M. S. DESHPANDE)
VICE-CHAIRMAN.

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