

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH.

ORIGINAL APPLICATION NO..: 316 of 1993.

Dated this Wednesday, the 21st day of June, 2000.

Smt. Kalindi Arun Kokate, \_\_\_\_\_ Applicant.

Shri K. B. Rajan, \_\_\_\_\_ Advocate for the  
applicant.

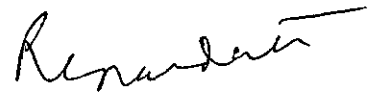
VERSUS

Union of India & 6 Others, \_\_\_\_\_ Respondents.

Shri R. R. Shetty for \_\_\_\_\_ Advocate for  
Shri R. K. Shetty, \_\_\_\_\_ the respondents.

CORAM : Hon'ble Shri Justice R.G. Vaidyanatha, Vice-Chairman.  
Hon'ble Shri B. N. Bahadur, Member (A).

- (i) To be referred to the Reporter or not ?  
(ii) Whether it needs to be circulated to other Benches  
of the Tribunal ?  
(iii) Library.

  
(R.G. VAIDYANATHA)  
VICE-CHAIRMAN.

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Hon'ble Shri B. N. Bahadur, Member (A).

Smt. Kalindi Arun Kokate,  
W/o. Arun Babu Rao Kokate,  
Residing at - Flat No. 418,  
'Laxmi Vaibhav', Laxmi Nagar Square,  
Bajaj Nagar, Nagpur - 440 010.

... Applicant.

(By Advocate Shri K. B. Rajan)

VERSUS

1. Union of India,  
Ministry of Defence,  
Government of India,  
South Block,  
New Delhi - 110 001.
2. The Engineer-in-Chief (Br.),  
Army Headquarters,  
New Delhi - 110 010.
3. The Chief Engineer,  
Southern Command,  
Head Quarters,  
Pune - 411 001.
4. The Chief Engineer (Navy),  
Assaye Building,  
Colaba, Bombay-400 005.
5. The Commander Works Engineer  
(Suburbans),  
Powai, Bhandup,  
Bombay - 400 078.
6. The Garrison Engineer,  
Karanja,  
Post NAD, Karanja (Uran),  
Dist. Raigad - 400 704.
7. Officer-In-Charge,  
Central Record Office (Officers),  
C/o. Chief Engineer, Delhi Zone,  
Delhi Contonment - 110 010.

... Respondents.

(By Advocate Shri R. R. Shetty  
for Shri R. K. Shetty)

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OPEN COURT ORDER

PER : Shri R. G. Vaidyanatha, Vice-Chairman.

The original applicant, who has since deceased, has filed this application challenging <sup>his</sup> the reversion and for consequential monetary benefits. The respondents have filed reply opposing the application. We have heard Mr. K. B. Rajan, the Learned Counsel for the applicant and Shri R. R. Shetty for Shri R. K. Shetty, the Learned Counsel for the respondents.

2. Almost all the facts in this case are admitted and undisputed.

The applicant was working as an Assistant Engineer and came to be promoted as Executive Engineer with effect from 11.10.1990. Then it was noticed that the applicant had suffered a minor penalty by order dated 12.12.1988 where he was imposed the penalty of reduction of pay for two years in a certain grade. Therefore, the administration thought that till the expiry of the penalty period, namely - 12.12.1990, he cannot be promoted. Therefore, the earlier order of promotion which had already been given effect to, came to be kept in abeyance by another order dated 15.12.1990 which is at page 25 of the Paper Book. Then after the expiry of two years of penalty period the applicant came to be again promoted as Executive Engineer with effect from 11.02.1991. Now therefore the question is, whether the order of reversion dated 15.12.1990 is sustainable or not ?

3. The respondents' contention is that in view of the order of penalty dated 12.12.1988 which imposed reduction in pay for two years, the applicant could not have been promoted till the penalty period comes to an end.



There is no doubt that till the penalty period the applicant cannot be promoted. But the question is, whether in the facts and circumstances of the case we can hold that applicant was suffering any penalty on 15.12.1990 when the order of reversion was passed.

4. The order of penalty is exhibit R-1 at page 58 of the Paper Book. The order does not simply say that applicant's pay is reduced by a certain amount for a period of two years. If it was such a simplicitor order without specific mention of pay, then the penalty has to be worked out for a period of two years from that day. But the order of penalty specifically says that applicant's pay is reduced by two stages from Rs. 3,200/- to Rs. 3,050/- for a period of two years. It is now admitted on both sides that applicant was drawing basic pay of Rs. 3,200/- as on 01.01.1986 itself. Therefore, though the order of penalty was issued in December, 1988, the applicant was drawing pay of Rs. 3,200/- on 01.01.1986. Even the administration has understood the order in that manner and recovered the arrears of reduction of pay for a period of two years in one lumpsum amount in September 1989. Atleast by September, 1989 when the arrears of reduction of pay for two years had already been recovered from the applicant, we can hold that applicant was not suffering any penalty from October, 1989 and onwards. Therefore, keeping the order of promotion in abeyance in December, 1990 was not called for. The applicant had already suffered the penalty and the amount had been recovered from him as early as September, 1989. Therefore, the order of reversion dated 15.12.1990 on the ground that the applicant is still undergoing the penalty cannot be sustained. Hence, in the facts and circumstances of the case, we

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have no hesitation to hold that the order of reversion or the order of keeping the promotion in abeyance dated 15.12.1990 is not sustainable in law and is liable to be quashed.

5. We have already seen that applicant was again repromoted with effect from 11.02.1991. It is now, admitted on both sides that though the order of reversion is ~~15.12.1988~~ <sup>15.12.1990</sup> and applicant had been promoted on 11.10.1990 as Executive Engineer, he had not received the salary of an Executive Engineer from 11.10.1990 itself, though he had worked in that post till 15.12.1990. In these circumstances, the applicant is entitled to the salary of an Executive Engineer from 11.10.1990 till 10.02.1991 and there is no dispute that from 11.02.1991 and onwards the applicant has received the salary as an Executive Engineer.

6. No doubt, there is some delay in filing the application. But applicant made representation to the administration and his representation came to be rejected as late as 31.12.1991 as per the order at page 49 of the paper book. Then the O.A. is filed in 1993. Hence, in the circumstances, we conclude that the application has been filed within one year from the date of rejection of his representation.

7. In the result, the application is partly allowed. The order of reversion or the order of keeping the promotion in abeyance dated 15.12.1990 is hereby quashed. As a consequence, the original deceased applicant is entitled to salary for the post of Executive Engineer from 11.10.1990 till 10.02.1991 (both days inclusive) less whatever salary he has already received. On that basis, the original applicant's salary in the promotional post be fixed as on 11.10.1990 and he has to

*[Signature]*

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be paid arrears of salary from that date till 10.02.1950 and on that basis, his pension and pensionary benefits should be revised and all the arrears should be paid to the original applicant's widow, Smt. Kalindi Arun Kokate, who has now been brought on record as legal heir, within a period of three months from the date of receipt of a copy of this order. In the circumstances of the case, there will be no order as to costs.

(R.G. VAIDYANATHA)  
VICE-CHAIRMAN.

(B. N. BAHADUR)  
MEMBER (A).