

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 330/93

Transfer Application No: ---

DATE OF DECISION: 6-5-94

K.M.Bansode and ors.

Petitioner

Mr.A.G.Deshpande

Advocate for the Petitioners

Versus

Director, Bombay GPO

Respondent

and four others.

Mr.S.S.Karkera

Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri M.R.Kolhatkar, Member(A)

The Hon'ble Shri --

1. To be referred to the Reporter or not ? ☒
2. Whether it needs to be circulated to other Benches of the Tribunal ? ☒

MR Kolhatkar
(M.R.KOLHATKAR)
Member(A)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.330/93

K.M.Bansode and six Ors. .. Applicants

-versus-

Director, BOMBAY G.P.O.

and four others. .. Respondents

Coram: Hon'ble Shri M.R.Kolhatkar,
Member(A)

Appearances:

1. Mr.A.G.Deshpande
Counsel for the
Applicants.

2. Mr.S.S.Karkera
Counsel for the
Respondents.

ORAL JUDGMENT: Date: 6-5-1994
(Per M.R.Kolhatkar, Member(A))

Heard Mr.A.G.Deshpande counsel for
the applicants and Mr.S.S.Karkera counsel for
the respondents.

2. The prayer in this application
is to declare the order dated 30-3-93 rela-
ting to the distribution of ^{work amongst} the Postal
Assistants(SBCO) in the G.P.O Bombay as
illegal and null and void. The interim relief
prayed for in the O.A. was for stay of the
order and to maintain status-quo ante. The
MP 443/94 is for ~~sat~~ stay on implementation
of the order dated 30-3-93 as well as subse-
quent order dated 2-4-94. The interim relief
and the final relief are identical. We are
therefore not inclined to grant the interim
relief. However, our attention was drawn,
during the course of argument, towards
circular ^{of DG P&TM} dated 24-8-93 on the subject of
redistribution of work amongst SBCO ^{staff} which

while stating that the work hitherto being done by Senior and Junior Postal Assistants in the SBCO shall hereafter be combined and divided amongst all the Postal Assistants(SBCO) and UDCs if any, ~~It is~~ also stated that fresh memo of distribution of work shall be approved by AOICO. This is in accordance with provision of Postal Manual of S.B.Control, Pairing and Internal Check Organisation para 2(c) which also lays down that memo of distribution of work amongst Accountant,UDCs and LDCs is to be approved by the A.O. ICO(SB) and thereafter to be followed rigidly. Admittedly the orders dated 30-3-93 and 2-4-94 produced before us today have not been approved by A.O.ICO(SB) though it stated to have been approved by the superior viz. Director, G.P.O. That does not, however, take away the fact that the codal formality of obtaining approval of A.O.ICO(SB) has not been completed before issue of the orders dated 30-3-93 and 2-4-94.

3. While we are not inclined to grant any interim relief we feel that the matter can be disposed of finally by giving a direction to the Director G.P.O.. We, therefore, dispose of the matter by passing the following order:

O R D E R

Director, Bombay G.P.O., respondent No.1 is directed to issue a fresh order of distribution ^{~ of work} amongst Postal Assistants of the SBCO after getting the memo of distribution of work approved by A.O.ICO(SB) within

--: 3 :--

a period of one month ~~from~~ ^{the date} receipt of this order.

There will be no order as to costs.

DASTI

M R Kolhatkar
(M.R.KOLHATKAR)
Member(A)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

REVIEW PETITION NO: 67/94
IN
ORIGINAL APPLICATION NO: 330/93

K.M.Bansode and others .. Review
Petitioners

-versus-

Director, Bombay G.P.O.
and four ors. .. Respondents

Coram: Hon'ble Shri M.R.Kolhatkar,
Member(A)

TRIBUNAL'S ORDER ON REVIEW
PETITION BY CIRCULATION
(Per M.R.Kolhatkar, Member(A))

Date: 18/7/94.

This review petition is directed against the order of the vacation bench dated 6-5-94. The grievance relates to order dated 30-3-93 relating to distribution of work amongst the Postal Assistants(SBCO) in the G.P.O. Bombay. It is admittedly a Division Bench matter but it came before the Single Member sitting as vacation bench on 6-5-94 for interim relief. The interim relief claimed was that the implementation of the order of the Chief Supervisor, Bombay G.P.O. be stayed and status-quo allowed to continue and the final relief was to declare the order as illegal, null and void requiring the cancellation of the order of the Chief Supervisor Bombay GPO dated 30-3-93 and to allow the status quo in this respect to be maintained. While declining interim relief the matter came to be decided finally by issue of certain directions. The ground for review is that the matter is a division bench matter and came before the

vacation bench only for the purpose of interim relief and it was not within the jurisdiction of the single member bench even if acting as vacation bench to dispose it of finally. It is contended that the interim relief and final relief are not identical and that the direction to comply with the codal formality of obtaining approval of A.O.ICO(SB) before issue of fresh orders of distribution of work was a patent error. It is also contended that the direction only requires the department to go through on empty codal formality ^{and} is not satisfactory.

2. It is true that single bench is constituted to deal with specific matters vide Appendix-I of Rules of Practice of C.A.T. It is also true that it is open to either parties to submit to the single member before the matter is taken up for admission or final hearing that it may be placed before a bench of two members. Evidently, this applies to single bench matter but would apply mutatis mutandis to the present case.

3. The essential fact is that the vacation bench was seized of the matter on 6-5-94, that it was a matter which was within the jurisdiction of the Tribunal, that both the parties were heard and that the direction which was issued though not specifically so stated, was as a matter of actual event in the nature of a consent direction. At the time of issue of direction it was open to the counsel

for the applicant to submit that the matter may not be finally disposed of. Admittedly this was not done. Moreover, the relief had been granted to the applicant in view of the P&T Circular dated 24-8-93. Reference to comply with the codal formality does not imply that the codal formality was an empty formality. The compliance with the codal formality of consulting and obtaining approval of A.O.ICO(SB) implies the power of A.O.ICO(SB) to make changes desired by him in the draft order. In other words, mere approval by the superior viz. Director, Bombay G.P.O. was not considered adequate.

4. Regarding jurisdiction of single member bench to decide a matter which under the Act is a Division Bench matter we hold that when a matter comes before the Tribunal ~~for~~ ~~for~~ interim relief, and it is seized of the matter, the mere fact that it initially came up as a matter for interim relief cannot fetter the competence of the Bench to pass any appropriate orders to achieve complete justice so long as principles of natural justice are observed. In this case, the order was not ex-parte and it was competent for the court to pass the order it did. It may be challenged otherwise but not on the ground of an error apparent on the face of the record which is the scope of review under A.T.Act.

5. Finally it may be observed that in terms of Section 22 of the Administrative Tribunals Act the Tribunal is required to be

guided by the principles of natural justice (2)
without being bound by the procedural
formalities and in this particular case
after giving a hearing to both the parties
and with the consent of both the parties
the matter was disposed of by a direction
thus contributing to the expeditious disposal
of the matter instead of placing the matter
on the sine-die list.

6. In view of these considerations
it is not considered that the review peti-
tioners have made out any case for review of
the order dated 6-5-94 and the review petition
is accordingly rejected.

M.R. Kolhatkar

(M.R. KOLHATKAR)
Member(A)

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