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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 416 of 1993
Transfer Application No.

Date of Decision : 14.7.95

Shri Anil Shingare, Petitioner

Shri S. P. Kulkarni, Advocate for the
Petitioners

Versus

Union Of India & Others, Respondents


+ Shri S. S. Karkera for
Shri P. M. Pradhan, Advocate for the
respondents

C O R A M :

The Hon'ble Shri B. S. Hegde, Member (J).

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

- (1) To be referred to the Reporter or not ? γ
- (2) Whether it needs to be circulated to γ
other Benches of the Tribunal?


(B. S. HEGDE)
MEMBER (J).

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNALBOMBAY BENCHORIGINAL APPLICATION NO.: 416 OF 1993.

Shri Anil Shingare ... Applicant

Versus

Union Of India & Others ... Respondents.

CORAM :

Hon'ble Shri B. S. Hegde, Member (J).

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

APPEARANCE :

1. Shri S. P. Kulkarni,
Counsel for the applicant.
2. Shri S. S. Karkera for
Shri P. M. Pradhan,
Counsel for the respondents.

JUDGEMENT :DATED : 14.7.95

¶ Per.: Shri B. S. Hegde, Member (J) ¶

1. The applicant has challenged the order of removal dated 31.12.1992 by filing this petition stating that the impugned order is irregular and illegal and the selection post held out by Respondent No. 1 is not in accordance with law, etc.

2. Heard the Learned Counsel for the parties Shri S.P. Kulkarni for the applicant and Shri S. S. Karkera for Shri P. M. Pradhan, Counsel for the Respondents. The short point for consideration in this case is whether the appointment of respondent no. 4 is in accordance with the rules/scheme prevalent at that time. Admittedly, the applicant being an outsider was engaged as E.D. Packer until further arrangements from 07.03.1992. It went on till 31.12.1992, till the

regular selected person was appointed. The post was to be filled up through regular selection through Employment Exchange. Since they did not receive any nomination from the Employment Exchange, the respondents issued a public notice on 03.11.1992. The applicant also applied for the same. In the ultimate choice, respondent no. 4 Shri R. S. Jadhav, was issued the appointment letter dated 31.12.1992. Accordingly, the applicant has been relieved from the post and was asked to hand over the charge. Against this, the applicant made representation for which he states, there is no reply. Accordingly, he filed this O.A.

3. The Respondents in their reply deny the contention of the applicant that he has got any right to the appointment. He was appointed on staff gap arrangement for the post of E.D. Packer till regular appointment to the post. He was not provisionally nor regularly appointed to the post of E.D. Packer, Vennanagar. The Sub Post Master is not the appointing authority for the post of E.D. Packer and exhibit-2 cannot be called as a letter of appointment either provisional or regular. It is clearly stated that since no nomination was received from the Employment Exchange, they issued a public notice against which the applicant also applied for the same. Admittedly, the respondent no. 4 - Shri R. S. Jadhav a resident of Sablewadi (Vennanagar P.O.) was selected for regular appointment as E.D. Packer Vennanagar against the vacant post due to promotion of Shri R. S. Shevade. Since the applicant was not regularly or provisionally appointed to the post of E.D. Packer, Vennanagar, the question of termination of his services does not arise. It was made clear at the time of his engagement that he was to work till a regular appointment is made. Once

the regular appointment is made as per the rules, he does not have the right to continue. However, the applicants contend that during the period of service, the performance of the applicant was unsatisfactory and accordingly he was not considered fit to the post. Since the candidate who was selected for the post was a resident of Sablewadi village in which the Post Office is situated, the question of continuing the services hard arise.

4. During the course of hearing, the Learned Counsel for the applicant Shri S. P. Kulkarni submitted that in case ~~on merit the petitioner does not succeed,~~ a direction may be given to the respondents to keep his name in the waiting list for offering next vacancy anywhere in Satara West Sub-division. Since his performance is found to be unsatisfactory, the question of keeping his name in waiting list may not serve the purpose because even in other areas only if the Employment Exchange nominee is not forth-coming, then only they can resort to public notice, as it is they shall have to take persons from Employment Exchange. In view of the recent Full Bench decision in S. Ranganayakulu V/s. Sub-Divisional Inspector (Postal) West Sub-Division, Anantapur & Others [1995 (1) ATJ 169] wherein it was held that fulfilment of the necessary requirement of eligibility was implicit and appointment on provisional basis incumbent not sponsored through Employment Exchange whether such appointment conferred upon him an indefeasible right to be considered for regular appointment. The Full Bench answered in the negative.

5. In the light of the above, we are of the view, that there is no substance in the application and the same is devoid of merit and accordingly dismissed but without any cost.

M R Kolhatkar

(M. R. KOLHATKAR)

MEMBER (A).

B S Hegde

(B. S. HEGDE)

MEMBER (J).

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