

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 566/1993

Date of Decision: 24/6/97

Chandrashekhar Gajagan Dabke

Petitioner/s

Shri B.Ranganathan for
Shri S.R.Atre.

Advocate for the
Petitioner/s

V/s.

Union of India & 2 Ors.

Respondent/s

Shri Pandya for Shri M.I.Sethna

Advocate for the
Respondent/s

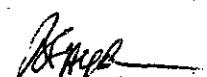
CORAM:

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

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

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

abp.


(B. S. HEGDE)
MEMBER (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GULESTAN BLDG. NO. 6, PRESCOT RD, 4TH FLR,

MUMBAI - 400 001.

ORIGINAL APPLICATION NO; 566/93.

DATED THIS 24TH DAY OF JUNE, 1997.

CORAM : Hon'ble Shri B.S.Hegde, Member(J),
Hon'ble Shri M.R.Kolhatkar, Member (A).

Chandrashekhar Gajanan Dabke,
Tax Assistant,
Office of the Central Excise,
Bombay II Collectorate, Piramal Chambers,
Parel, Bombay - 400 012.

... Applicant.

By Advocate Shri B.Ranganathan for
Shri S.R.Atre.

V/s.

1. The Union of India, through the Principal Collector, Central Excise, Central Excise Building, Maharshi Karve Road, Churchgate, Bombay - 400 020.
2. The Collector of Central Excise, Collectorate I, Central Excise Building, Maharshi Karve Road, Churchgate, Bombay - 400 020.
3. The Collector of Central Excise, Office of the Collector of Central Excise Collectorate II, Piramal Chambers, 9th Floor, Parel, Bombay - 400 012.

... Respondents.

By Advocate Shri Pandya for
Shri M.I.Sethna.

I O R D E R I

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

Heard Shri B.Ranganathan for Shri S.R.Atre for
Applicant and Shri Pandya for Shri M.I.Sethna for respondents.

2. Though the OA was admitted as back as 15/6/93, the respondents did not care to file their reply till now, therefore we forfeit their right to file reply. Accordingly we proceed.
3. The Learned Counsel for applicant states that pursuant to the direction of the Tribunal dated 15/6/93, the applicant was called for Physical Test and Interview and according to his information he has passed the test. The department wide their letter dated 10th September, 1993., stated that in view of

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the Interim Order passed by the Tribunal dated 15/6/93, though they have considered the applicant for the post of Inspector, further action will be taken after the final decision is received from Tribunal.

4. In the circumstances, we hereby direct the respondents to open the result of the applicant and if he is found successful he should be promoted as Inspector w.e.f. 15/6/93 onwards.

5. The Interim Order passed on 15/6/93 stands vacated. He should be given notional seniority from that date. OA is disposed of with above directions and with no orders as to costs.

M.R.Kolhatkar

(M.R.KOLHATKAR)
MEMBER (A)

B.S.Hegde

(B.S.HEGDE)
MEMBER (J)

abp.

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

C.P. 78/97 in
Original Application No. 566/93

Tribunal's order

Dated: 26.6.98

Shri B. Ranganathan for Shri S.R. Atre, counsel for the applicant. Shri M.I. Sethna alongwith Shri Vadhavkar counsel for the respondents.

2. The applicant has filed C.P. 78/97 alleging that the respondents have committed contempt in not complying with the order dated 24.6.97 passed in O.A. 566/93 and thereby committed contempt of Court. The respondents have filed reply denying the allegations. We have heard the counsel for both sides.

3. The Tribunal by order dated 24.6.97 allowed the O.A. and directed the respondents to promote the applicants with effect from 15.6.93, if he is found successful in the test. According to the applicant, now he has been promoted with effect from 15.6.93 but his seniority has not been fixed and arrears of salary from 15.6.93 has not been paid. Therefore it is alleged that the respondents have committed contempt of Court.

4. The respondents have stated that the applicant was given notional promotion and necessary memo will be issued. As far as the delay is concerned the respondents have tendered unconditional apology.

5. The only grievance is that of arrears of salary for the promotional post has not been given to the applicant from 15.6.93. We have gone through the operative portion of the order. In the order it is not mentioned that the applicant is entitled



to consequential monetary benefits. It is very clear that the applicant will be given notional promotion and seniority from that date. In addition to that, in the O.A., there was no prayer for consequential monetary benefits. A party cannot get more relief than what he has prayed for. Considering the prayer in the O.A. the Tribunal has not granted the relief of consequential monetary benefits.

6. The learned counsel for the applicant has invited our attentions to two authorities (1993) 24 ATC (Ramesh Chander and another V/s. R.S. Ghabawat and others and (1993) 24 ATC 757 (Deny Leonard V/s. A.K. Agarwal. We have perused the cases. These cases are quite distinguishable than the facts of the present case. Hence these are not applicable.

The applicant has been given notional promotion and seniority with effect from 15.6.93. As far as issuing of correction slip regarding seniority, the learned counsel for the respondents made a statement that the applicant is on probation and necessary correction will be issued after the probation period is over. In the circumstances of the case, we do not find any serious or wilful dis-obedience on the part of the respondents in complying with the order of the Tribunal.

7. In the result the C.P. is rejected. However, the respondents are directed to issue necessary memo regarding the applicant's position in the seniority in accordance with law.


(D.S. Baweja)
Member (AG)


(R.G. Vaidyanatha)
Vice Chairman

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(5)

16/6/98
Order of the Tribunal Committee
(C)

13/7/98 3/8/98