

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 902/93

DATE OF DECISION: 25/7/2001

Mohan Pandurang Hankare

Applicant

Shri K.B.Rajan

Advocate for
Applicant.

Versus

Union of India & 2 Ors

Respondents.

Shri B.Ranganathan for J.P.Deodhar

Advocate for
Respondents.

Coram:

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J)

Hon'ble Shri V.K.Majotra, Member(A)

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

V.K.Majotra
(V.K.MAJOTRA)
MEMBER(A)

abp

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
OA.No.902/1993

Mumbai this the 25th day of July, 2001

CORAM:HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE CHAIRMAN(J)
HON'BLE SHRI V.K.MAJOTRA, MEMBER(A)

Mohan Pandurang Hankare,
working as Motor Mechanic
in the office of Film Division
Ministry of Information and
Broadcasting, 24, Dr.G.Deshmukh
Marg, Bombay - 400 026. Applicant

By Advocate Shri K.B.Rajan

V/s.

1. Union of India through
Secretary,
Ministry of Information &
Broadcasting,
Government of India,
Askashwani Bhawan,
New Delhi -- 110 011.

2. Director of Administration,
Film Division,
Ministry of Information & Broadcasting,
Film Bhawan, 24,Dr.G.Deshmukh Marg,
Bombay - 400 026.

3. Central Surplus Cell,
Director General of Employment Training,
Asaf Ali Road, New Delhi. Respondents

By Advocate Shri B.Ranganathan proxy
counsel for Shri J.P.Deodhar.

(ORDER)(ORAL)

(Hon'ble Shri V.K.Majotra, Member(A)

MP 628/2001 filed by the applicant seeks that letter dated 20/6/2001 of the respondents stating that there is no vacancy of MT Fitter at Mumbai and that a post of MT Fitter at CGAS Daman is still kept vacant and letter dated 7/6/2001 of D.O.P & T asking the Coast Guard Region, Worli to issue a fresh order of appointment to the applicant giving him one month's time

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to join the new assignment and the subsequent letter dated 10/7/2001 issued by the Coast Guard Region, Mumbai appointing the applicant to the post of MT Fitter in the payscale of Rs.3050-4590 with effect from his resuming the duty at Daman, is taken on record. The learned counsel for opposite side has no objection. The MP is allowed to the effect that these documents are taken on record.

2. The applicant is challenging Annexure A-1 dated 6/7/1993 issued by respondent no.2, Director of Administration, Films Division, Bombay whereby consequent on the recommendations of the Staff Inspection Unit (SIU), Ministry of Finance, the post of MT Fitter in Films Division has been abolished and also informing the applicant that he has been placed at the disposal of Central Surplus Cell w.e.f. 1/5/93 for suitable post in any Central Government posting and that the place of posting and other details will be intimated as soon as received from the Central Surplus Cell.

3. We notice that this OA seeking quashing and setting aside the order dated 6/7/93 referred to above was filed way back on 19/8/93. MP-319/94 seeking stay on the operations of notice dated 25/2/94 in respect of deployment of the applicant in terms of Surplus Staff Rules 1990 CCS Redeployment of Surplus Staff Rules, 1990 (herein after referred to RSS Rules). On 18/3/94, the request of the applicant for stay of order dated 25/2/94 was rejected

On 18/3/94, this Bench passed the following order:-

MP-319/94 is for staying the operation of the notice dated 25/2/94. The notice is in respect of deployment of services of applicant in terms

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of Surplus Staff Rules 1990. The main prayer of the applicant in OA is challenging the abolition of the post.

We are not inclined to consider the stay of notice dated 25/2/94 without hearing the respondents. Respondents are given three weeks time to file reply.

4. Thereafter, as we notice from MP-628/2001(2), that there is no vacancy of MT Fitter at Mumbai but there is a post of MT Fitter at CGAS Daman which is still kept vacant for the applicant. Vide Annexure -2 to MP -2 dated 10/7/2001, Coast Guard Region, Mumbai has issued an order that applicant's appointment to the post of MT Fitter in the payscale of Rs.3050-4590 at Daman is offered to him and he is supposed to take up the appointment within a period of one month from 10/7/2001 failing which action to terminate his service shall be initiated in accordance with D.O.P & T OM dated 16/10/90 and provision contained in the CCS (RSS) Rules, 1990.

5. We have heard the learned counsel of both sides at length. The learned counsel for the applicant stated that the applicant belongs to scheduled caste community and the respondents have acted with malafide intention to abolish the post of MT Fitter in the Films Division which was held by him. On 25/2/94, he was asked to go to Daman and having been declared surplus and offered redeployment. Later on he was relieved from the MT Fitter on 8/11/96 during which time the applicant was allowed to continue with the Films Division. The learned counsel stated that the applicant had made it absolutely clear that he would not accept any re-deployment except in Bombay.

6. The learned counsel of the respondents contended that Staff Inspection Unit of Minsitry of Finance had conducted a study on



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workload of Films Division and recommended abolition of 56 posts of the division including the post of MT Fitter held by the applicant in the Films Division. The applicant was informed about this vide Annexure A-1 dated 6/7/93 that he has been placed at the disposal of Central Surplus Cell w.e.f. 1/5/93 for suitable posting in any Central Government office. He was kept in the surplus cell till 7/11/96 and paid all salaries. Thereafter, he was relieved on 8/11/96 to take up the alternate post offered by the Coast Guard Region(West) as stated above. The applicant chose not to go to Daman. D.O.P & T vide Annexure-6 dated 18/8/97 stated that

"on humanitarian ground decided to afford one more opportunity to join the duties with the CoastGuard, within a period of one month of the date of that notice failing which his services were to be terminated in terms of instructions.

The applicant was informed about the instructions contained in the D.O.P & T memorandum dated 18/8/97 vide Annexure-5 dated 5/9/97. However, the applicant again did not avail of this opportunity to join the Coast Guard at Daman.

7. From the provisions contained in the scheme on Redployment of Surplus Staff, we find that when the surplus employee is offered alternative placement, but refuses to join the post or would not have joined the new post within the period specified by the appointing authority of the new post, without showing adequate cause for such failure and timely extension of time for joining, his surplus post under the

provision will have to ^{be} terminated forthwith and further action for his redeployment may be closed after serving upon him a notice of termination under the appropriate rule.

8. From the facts of the present case, we find the respondents had abolished among others applicant's post on the basis of the recommendations of Staff Inspection Unit and have made efforts till as late as July, 2001 to accommodate him as a surplus staff. The applicant has declined to avail of the position located by the respondents for adjusting the applicant. There is no post available for the applicant in Mumbai and the only post according to the respondents available is at CGAS Daman. Normally, as stated above, under the provisions of RSS scheme, the applicant having declined to accept the offer of appointment on redeployment as surplus employee within the stipulated period, the respondents would have within their rights taken steps to terminate his services. This they have not done on humanitarian grounds and offered him to join within a month's time at CGAS Daman. In our considered view, the applicant has been shown more than what is necessary consideration and sympathy for his redeployment on abolition of his post of MT Fitter, no further consideration seems to be possible for applicant's case for further adjustment. We find that the respondents have made their efforts to adjust the applicant in Mumbai in terms of this Tribunal's order dated 18/6/2001 as well.

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9. As regards to the reasons stated above, we do not find any merit in the OA. However, it is open to the applicant to avail of the opportunity accorded to him vide letter dated 10/7/2001 to take up the appointment in terms by 9/8/2001 as stipulated therein. No costs.

V.K.Majotra
(V.K.MAJOTRA)
MEMBER(A)

Lakshmi Swaminathan
(SMT.LAKSHMI SWAMINATHAN)
VICE CHAIRMAN(J)

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