IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 937 of 1994 & 1044/96

Date of Decision: 4.06.2000

V.B Rai & four others (937/94)
Pradeep Kumar & 13 others (1044/96)
Applicant.

Shri R.C. Kotiankar
Advocate for Applicant.

Versus

Union of India & Ors.
Respondent(s)

Shri M.I. Sethna.
Advocate for Respondent(s)

CORAM:

Hon'ble Shri. L. Hmingliana, Member (A)

Hon'ble Shri. Rafiquddin, Member (J)

(1) To be referred to the Reporter or not? Yes

(2) Whether it needs to be circulated to other Benches of the Tribunal? No

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

DATED: 14.06.2000

1.REGISTRATION NO. OA 937 OF 1994

V.B. Rai and four others .....APPLICANTS.

V/S

Union of India & others .....RESPONDENTS.

With

2.REGISTRATION NO. OA 1044 OF 1996

Pradeep Kumar and 13 others ..... APPLICANTS.

V/S

Union of India and others ..... RESPONDENTS.

Counsel for the applicants : Shri R.C. Kotiankar

Counsel for the respondents: Shri M.I. Sethna.

CORAM : Hon'ble Shri L. Hmingliana, Member (A)
Hon'ble Shri Rafiquddin, Member (J)

O R D E R

L.Hmingliana, Member (A):-

This order will govern OAs No. 937/94 and No. 1044/96 filed by Scientific Officers of the Nuclear Power Corporation (in short NPC), as the applicants are similarly situated, and the reliefs sought in both the OAs are the same, which is for being treated as government servants.

2. The five applicants in OA 937/94 and the fourteen applicants in OA 1044/96 were appointed as scientific officers in NPC by two common orders dated 3.12.1988 and 25.10.1988 respectively, of the NPC. Before their appointments to the NPC, they had successfully undergone and completed the 31st course

of the Bhabha Atomic Research Centre (in short BARC) Training, and the training was for the purpose of their appointment in any of the Units/Projects under the Department of Atomic Energy, depending on their suitability, and performance during the course. They were among 215 trainees. It is stated in both the OAs that 38 of the trainees were allotted to the NPC, while the others were governed by the rules applicable to Group 'A' Officers of Government of India. In other words, their grievance is that they were allotted and appointed as Scientific Officers of the NPC, not of the government, whereas their fellow trainees came to be appointed as Scientific Officers of the Government under the Department of Atomic Energy.

3. The NPC has not been notified for the jurisdiction of the Tribunal over service matters under the Administrative Tribunals Act, 1985, and the question arose at the hearing as to whether the Tribunal has the jurisdiction to entertain and dispose of the two matters. But that question need not detain us, because the reliefs sought by the applicants in both the matters are for being treated as government servants or as government servants on deputation to the NPC. We have been entertaining and disposing of applications filed by unsuccessful candidates for appointments to posts under the Government, and in the

same manner, we have the jurisdiction to hear the two matters, and decide whether the applicants are entitled to reliefs they are seeking from us or not.

4. Another question that arose is the question whether the two OAs are barred by limitation or not, as contended by the respondents in their replies. It is true that the appointments of the applicants were made in October and December, 1988. OA 937/94 was filed in August, 1994, and OA 1044/96 in October, 1996. Shri R.C. Kotiankar, the learned counsel for the applicants in both the matters pointed out that OA 937/94 was admitted on 30.8.1994, and that the cause of action arose when the applicants in the OA came to know from the NPC's letter dated 12.4.1994 that their claim for the status of government servants came to be finally rejected by the Government as per letter of the Department of Atomic Energy dated 2.2.1994. The Senior respondents' learned counsel Shri M.I. Sethna argued that even if the cause of action is treated as having arisen in April, 1994, OA 1044/96 would still be barred by limitation, as it was filed more than two years after the cause of action would be arising, to which Shri Kotiankar argued that the cause of action in the OA 1044/96 arose when the applicants in the OA came to know of their omission from the list of eligible officers for allotment of government's accommodation from the

letter dated 19.8.1996 of the Chief Administrative Officer of the Department of Atomic Energy, as that would amount to final rejection of their claim for status of government servants. The second OA can be dismissed as time barred, as pointed out by Shri M.I. Sethna. However, we had admitted the 1st OA, and as the reliefs sought in the 2nd OA are also the same as those in the 1st OA, we have heard both the matters for final disposal.

5. Shri Kotiankar argued that the allotment of applicants to the service of NPC, instead of government was a breach of contract, which was entered into by the applicants with the government by an agreement signed on 27.8.1987, and which is the basis of the appointment of most of the trainees to the service of the government. The learned counsel further argued that the NPC came to be set up in September, 1987, which was well after the applicants joined the training, and were committed to the course by their agreements with the government.

6. The arguments were long and sometimes heated, but we find that there is no need to go into every point raised in the arguments of the learned counsel, or to write a lengthy order. Suffice it to say that the agreement entered into by the applicants with the government did not specifically stipulate that the

applicants would necessarily be appointed only as government servants. It is true that in the agreement, it was mentioned that " on the successful completion of training, the trainees shall accept service under the government, if the same is offered." The NPC was set up and wholly owned by the government for the specific purpose of managing and implementing its nuclear programme, and the appointments of the applicants as ~~the~~ Scientific Officers of the Corporation was also under government, though not as directly as the appointment of their fellow trainees as Scientific Officers under the Department of Atomic Energy. And their allotment to the service of the NPC was according to their suitability as determined by the respondents on the basis of their performances during their training, and there was no arbitrariness in their allotment to the NPC, even though ~~while~~ the majority of the trainees were allotted to the Department of Atomic Energy. Then, the applicants have no case for being treated as government servants, and there can be no question of being treated as on deputation to the NPC. Nor can they claim to be governed by the service conditions of the government, as the NPC has also its service rules, which have not been shown to be in any way inferior to those of the government.

7. Both OAs 937/94 and 1044/96 are dismissed, with no order as to costs.

(RAFIQUDDIN)
MEMBER (J)

(L. HMINGLIANA)
MEMBER (A)

/CBS/