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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 983 of 1994.

Dated this Wednesday, the 15th day of December, 1999.

Shri V. N. Kotiya, Applicant.

Shri G. S. Walia, Advocate for the
applicant.

VERSUS

Shri R. K. Shetty, Advocate for
Respondents.

CORAM : Hon'ble Shri Justice R. G. Vaidyanatha,
Vice-Chairman.

Hon'ble Shri B. N. Bahadur, Member (A).

- (i) To be referred to the Reporter or not ?
- (ii) Whether it needs to be circulated to other Benches
of the Tribunal ?
- (iii) Library.

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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CORAM : Hon'ble Shri Justice R. G. Vaidyanatha, Vice-Chairman.
Hon'ble Shri B. N. Bahadur, Member (A).

V. N. Kotiya,
Junior Engineer (E),
Electricity Department,
Union Territory of Daman,
Diu & Dadra Nagar Haveli,
Daman 396 220. ... Applicant

(By Advocate Shri G.S. Walia)

VERSUS

1. Union of India through
The Administrator,
Union Territory of
Daman, Diu & Dadra Nagar
Haveli,
Daman - 396 220.
2. Assistant Secretary,
Administrative Secretariat,
Union Territory of Daman,
Diu & Dadra Nagar Haveli,
Daman - 396 220. ... Respondents.

(By Advocate Shri R. K. Shetty)

OPEN COURT ORDER

PER : Shri R. G. Vaidyanatha, Vice-Chairman.

This is an application challenging applicant's
non-promotion and for a direction to the respondents to consider
his case for promotion as Assistant Engineer and for

consequential benefits. Respondents have filed reply opposing the application.

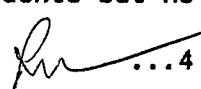
2. The applicant is working as a Junior Engineer (Electrical) in the Electricity Department in the Union Territory of Daman, Diu & Dadra Nagar Haveli at the relevant time. The applicant was at sl. no. 4 in the seniority list of Junior Engineers as on 31.05.1992. One Mr. N. N. Tandel was at sl. no. 6 and junior to the applicant. The applicant's grievance is that Mr. N. N. Tandel who is junior to the applicant was promoted as Assistant Engineer on adhoc basis with effect from 30.12.1987, which is not permissible. Since the applicant was senior to Mr. Tandel, the applicant should have been considered and promoted on adhoc basis as Assistant Engineer and, therefore, the action of the administration in promoting a junior officer is illegal and liable to be quashed.

3. The respondents have filed reply justifying the promotion of Mr. Tandel as Assistant Engineer in preference to the applicant for promotion as Assistant Engineer on adhoc basis on the ground that on the date of vacancy and on the date of D.P.C., the applicant did not have the required eligibility criteria and, therefore, he could not be promoted. It is stated that applicant being a diploma holder, should have minimum seven years service in the feeder cadre for being considered for adhoc promotion or regular promotion, but applicant did not have seven years of

service. As far as Mr. Tandel is concerned, it is stated that since he was a graduate engineer, he should have only three years experience for being eligible to be considered for promotion. It is also stated that the application is not maintainable and the applicant has now come to Court after acquiring seven years service in the feeder cadre.

4. The Learned Counsel for the applicant has took us through the materials on record and the seniority list and contended that though the applicant was senior to Mr. Tandel, he has been wrongly superseded for adhoc promotion. On the other hand, the Learned Counsel for the respondents justified the action of the administration on the ground of eligibility criteria as on the date of D.P.C. or as on the date of vacancy.

5. After hearing both sides and perusing the records, we find that the applicant was superseded and Mr. Tandel was promoted in December 1987. The applicant got a cause of action when his junior is promoted as an Assistant Engineer in the last week of December 1987 or atleast in the first week of January, 1988. The applicant should have approached this Tribunal within one year from the date he came to know that he has been overlooked or he has been superseded for the promotion of Assistant Engineer on adhoc basis. May be the applicant might have given one or two representations to the respondents but he

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has approached this Tribunal by filing the present application in 1994. By 1994 Mr. Tandel has already completed seven years of service as an adhoc Assistant Engineer. In view of the undue and unexplained delay of seven years, we feel that no relief can be given to the applicant and, hence, we need not go into the question of merits. In the facts and circumstances of the case, we feel that in view of the undue and unexplained delay of seven years, we cannot grant any relief to the applicant and, therefore, we are not considering the question on merits.

6. In the result, the application is dismissed. No order as to costs.

B.N. Bahadur

(B.N. BAHADUR)

MEMBER (A).

R. G. Vaidyanatha

(R. G. VAIDYANATHA)

VICE-CHAIRMAN.

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