

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 22/1994

Date of Decision: 16/4/98

Shri I.V.Bharadhan, Bombay

Petitioner/s

Shri D.V.Gangal

Advocate for the
Petitioner/s

V/s.

Western Naval Commandant

Respondent/s

Shri V.S.Masurkar

Advocate for the
Respondent/s

CORAM:

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

Hon'ble Shri P.P. Srivastava, 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? *no*

trk

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

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING No.6
PRESCOT ROAD, MUMBAI 400001

ORIGINAL APPLICATION No. 22/94

DATED : 16th APRIL, 1998

CORAM : HON'BLE SHRI JUSTICE R.G.VAIDYANATHA, V.C.
HON'BLE SHRI P.P. SRIVASTAVA, MEMBER(A)

I V Bharadhan
C/o. P N Narayan
E/21 Thakshaysila
Annushaktinagar
Mumbai 400094
(By Adv. Mr. D V Gangal)

..Applicant

V/s.

Vice Admiral
The Chief of Naval Staff
Naval Head Quarters
New Delhi & 2 ors.
(By Adv. Mr. V S Masurkar,
Senior Central Govt.
Standing Counsel)

..Respondents

ORDER
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[Per: R G Vaidyanatha, Vice Chairman]

1. This is an application filed by the applicant challenging the order of removal from service passed by the Respondent. Respondents have file reply opposing the O.A. We have heard the learned counsel appearing on both the sides.

2. The applicant came to be appointed on casual basis in 1978 and on regular basis on 22.5.84 as a Mazdoor in the Naval Dockyard. It appears subsequently the respondents came to know that there was a racket in the employment process and candidates have been appointed without proper qualification and on the basis of false school certificate. Then an inquiry was made and the respondents came to know that the applicant has given a false VIIIth standard pass certificate to get employment.



Then a charge sheet was issued and a departmental inquiry was held. The disciplinary authority held that the charge is proved against the applicant and passed an order of removal from service dated 12.6.1986. Then the applicant challenged the same by filing revision application which came to be disposed of by the competent authority as per order dated 18.3.93 under which the revision application came to be dismissed. Being aggrieved by this order the applicant has approached this Tribunal challenging the same. He has taken number of grounds challenging the order of removal from service.

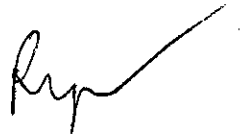
3. Respondents have filed reply opposing the application and justifying the order of removal from service.

4. At the time of argument the learned counsel for the applicant raised many points in support of his contention. The same contentions were raised before us in other cases viz., O.A.No. 377/93 and connected cases which came to be disposed of by a Division Bench of this Tribunal, of which one of us (R.G.Vaidyanatha, Vice Chairman) was on the Bench, vide judgment dated 26.3.98. All the contentions now pressed before us are identical and similar to the contentions raised before the Division Bench in the said cases which this Tribunal rejected and upheld the order of removal from service. We adopt the same reasoning given in the order dated 26.3.98 and for the same reasons we reject the contentions pressed into by the learned counsel for the applicant in this O.A.



5. Learned counsel for the applicant tried to distinguish the reasons given in the previous order by advancing an argument that the same benefits as given by the Supreme Court in the case reported in 1992(19)ATC 292 [H.C.PUTTASWAMY & ORS Vs. THE HON'BLE CHIEF JUSTICE OF KARNATAKA HIGH COURT, BANGALORE & ORS] may be given to the applicant. This Tribunal had considered this argument and rejected that argument in para 12 of the order dated 26..3.98. Now the argument is that the applicant is a victim of the racket and therefore he should not be penalized on that ground. In our view the judgment of the Supreme Court in PUTTASWAMY's case does not come to the aid of the present applicant. In that case before the Supreme Court there was neither an allegation nor a finding that the officials who were appointed by the High Court had committed any fraud or misconduct. But in the present case it is established by the respondents and in fact it was admitted by the applicant by pleading guilty that that he had produced a false or fake marks certificate for obtaining the service. Hence the relief given by the Supreme Court in the case of PUTTASWAMY's case cannot be given to the present applicant.

6. Another contention urged by the learned counsel for the applicant is that an order for removal from service is no bar for fresh appointment and in this case the applicant has prayed for fresh appointment and urged that it may be considered by the respondents. It is true that



removal from service is no bar for fresh appointment. It is always open to the applicant to seek employment from the Respondents and the respondents may consider his application on merits and according to rules.

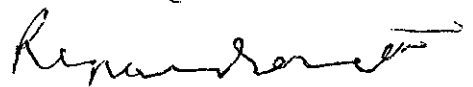
7. We adopt the same reasoning given by the Division Bench in O.A.No.377/93 in its order dated 26.3.98 and for the same reasons we find that that there is no merit in this O.A. and is accordingly dismissed.

8. In the result the O.A. fails and is dismissed subject to the observation made in para 6 above. Registry to give a copy of the order dated 26.3.98 in O.A. No. 377/93 and connected cases be also supplied with this order since it contains detailed reasons. In the circumstances of the case there would be no order as to costs.



(P.P.Srivastava)

Member(A)



(R.G.Vaidyanatha)

Vice Chairman