

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
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Original Application No: 948/94  
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Transfer Application No:

DATE OF DECISION: 22.11.1994

Shri D.B.Dixit ..... Petitioner

Shri G.S.Walia ..... Advocate for the Petitioner

Versus  
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Union of India & Ors. ..... Respondent


Shri N.K.Srinivasan ..... Advocate for the Respondent(s)

CORAM :  
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The Hon'ble Shri Justice M.S.Deshpande, Vice Chairman

The Hon'ble Shri

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

  
(M.S.DESHPANDE)  
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY



OA.NO. 948/94

Shri D.B.Dixit

... Applicant

V/S.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande

Appearance

Shri G.S.Walia  
Advocate  
for the Applicant

Shri N.K.Srinivasan  
Advocate  
for the Respondents

ORAL JUDGEMENT

Dated: 22.11.1994

(PER: M.S.Deshpande, Vice Chairman)

By this application the applicant seeks the post of Office Superintendent scale Rs.2000-3200 w.e.f. 1.8.1992 with all consequential benefits.

2. The applicant was working as a Chief Clerk at Bombay Central with the respondents. He was appointed to the post of Office Superintendent on 10.12.1992 though the post, which was a non-selection post, fell vacant on 1.8.1992 upon the retirement of Ashra on 31.7.1992. The applicant was appointed to that post only on 10.12.1992. Another post of Office Superintendent which had fallen vacant upon the retirement of B.R.Muthu on 30.6.1992 was filled by the order dated 15.10.1992 by appointing D.V.Kalvit. That order read that it was an officiating adhoc appointment as a local arrangement and Kalvit did not have any claim for regular promotion. According to the applicant since he was the senior most person, he should have been appointed w.e.f. 1.8.1992 to the post which fell vacant due to Ashra's retirement or 1.7.1992 when Kalvit was appointed on the retirement of B.R.Muthu.

3. The respondents' contention is that there were four persons whose claims were to be considered and Arun Merchant <sup>who</sup> was senior came to be promoted w.e.f. 10.12.1992. There is no dispute that Kalvit was junior to the applicant and that the applicant and Kalvit were both stationed at Bombay Central and were borne on a common seniority list. It is urged that since Kalvit's appointment was only on adhoc basis as a local arrangement, the applicant cannot lay a right to that post and Arun Merchant was senior to them had not made a grievance about his promotion w.e.f. 10.12.1992, the applicant also cannot make any grievance.

4. There is no dispute about the position that the post to which Kalvit was appointed had fallen vacant on 1.7.1992 and the post of Office Superintendent which fell vacant on 1.7.1992 upon Ashra's retirement were non-selection posts and that Kalvit was junior to the applicant. Since there were two posts which were available, the fact that Arun Merchant did not make any grievance about his promotion w.e.f. 10.12.1992 cannot be of any consequences. ~~That~~ It was open to the respondents to make adhoc officiating arrangement in respect of the other posting, <sup>and</sup> since the applicant was also stationed at Bombay Central and was a competitor for the post, the officiating arrangement which had been made by the order dated 15.10.1992 was made to the detriment of the applicant though it was stated to be a local adhoc arrangement w.e.f. 1.7.1992. By virtue of his seniority, the applicant though junior to Arun Merchant should have been considered for the post which fell vacant by Ashra's retirement on 31.7.1992 ~~and applicant's retirement w.e.f. 31.10.1993.~~ By virtue of his seniority Merchant could have laid a claim to the post which fell vacant w.e.f. 1.7.1992, I see no merit in the contention of the respondents



that the applicant had no claim to the post, once  
ad hoc local arrangement was made to the detriment  
of the applicant who was also available locally, and  
the applicant had a right to prefer a claim to that  
post.

5. The applicant, however, retired on 31.10.1993,  
Shri Walia for the applicant urges that the applicant's  
pensionary benefits should be calculated on the basis  
that the applicant was notionally promoted w.e.f. 1.8.1992  
and this request in the circumstances appears to me <sup>to be</sup> very  
fair.

6. In the result, the application is allowed. The  
respondents are directed to grant notional promotion  
to the applicant w.e.f. 1.8.1992 in place of 10.12.1992  
and fix the applicant's pay on that basis until the  
date of retirement on 31.10.1993 and on that basis grant  
pensionary benefits to the applicant together with the  
arrears. This shall be done within three months from  
the date of communication of this order. No order as to  
costs.

  
(M.S.DESHPANDE)  
VICE CHAIRMAN

mrj.