

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

REVIEW APPLICATION NO. 49/2001
IN
ORIGINAL APPLICATION NO. 353/1994

THIS THE 19TH DAY OF SEPTEMBER 2001

CORAM: SMT. SHANTA SHASTRY. ... MEMBER (A)
SHRI SHANKAR RAJU. ... MEMBER (J)

Union of India
through the Secretary,
Department of Atomic Energy,
CSM Marg,
Mumbai-400 001.

.. Review Applicant/
Respondent

By Advocate Smt. N.V. Masurkar.

Versus

Shri L.c. Dass,
Assistant Security Officer,
B.A.R.C.

... Respondent/
Applicant in OA.

O R D E R (CIRCULATION)

Smt. Shanta Shastri.

... Member (A)

This review application has been filed against the order dated 13.6.2001 in OA No.353/94 by the respondents in the aforesaid OA.

2. This Tribunal directed the respondents in the OA to hold a review DPC and to reconsider the case of the applicant in terms of OM dated 11.7.1968 by giving the higher grading and if found fit to grant

...2.

consequential benefits thereof. The review applicants have submitted that this OM of 11.7.68 was superseded by the DOP & aR OM dated 10/41/73-Estt. (SCT) dated 20.7.1974 on the subject of reservation in posts filled by promotion byselection to Class II, within Class II, and up to the lowest rung of Class I and as such, the provisions contained in clauses (i) and (ii) of paragraph 2 (B) (a) therein have become inoperative. The review applicants have stated that this plea could not be taken up in the OA as it was sought to be raised in the rejoinder for the first time belatedly. The points raised at the time of arguments based on rejoinder could not be answered and therefore, this supersession of a part of the OM dated 11.7.68 by OM dated 20.7.74 of othe DP&AR could not be pointed out.

3. We have considered the the above mentioned ground taken by the review applicants. The judgment was dictated in the open court. The review applicants/respondents could have definitely raised this point during the course of the arguments. Whether the rejoinder was taken on record or not it was certainly discussed during the hearing. Further, the consolidated instructions/ guidelines of the DOP & T on promotions, issued by OM dated 10th April, 1989 clearly

lays down in para 6.3.2 that in such case where the SC/ST officers are senior enough in the zone of consideration for promotion so as to be within the number of vacancies for which the select list has been drawn up not withstanding the prescription of 'bench mark' be included in that list provided they are not considered unfit for promotion.

In view of this the review application is rejected.

Shankar

(SHANKAR RAJU)
MEMBER (J)

Shanta

(SMT. SHANTA SHASTRY)
MEMBER (A)

Gaja

dt - 19/9/01
order/... : ...
to Applicant(s)
on 09/11/01

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