

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:1164/94

DATE OF DECISION: 17.7.2000

Shri Sabhapati Devmani Yadav

Applicant.

Shri H.T.Ameta

Advocate for

Applicant.

Versus

Union of India and others

Respondents.

Shri V.S. Masurkar.

Advocate for

Respondents

**CORAM**

Hon'ble Shri ~~Justice~~ A.V. Haridasan, Vice Chairman.

Hon'ble Shri Govindan S. Tampi, Member (A)

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

(2) Whether it needs to be circulated to  
other Benches of the Tribunal?

(3) Library.

(A.V. Haridasan)  
Vice Chairman

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO:1164/94

MONDAY the 17th day of JULY 2000

CORAM: Hon'ble Shri A.V. Haridasan, Vice Chairman  
Hon'ble Shri Govindan S.Tampi, Member (A)

Sabhapati Devmani Yadav,  
Poultry Attendant,  
Randam Sample Poultry  
Performance Testing Centre,  
Dept. of Animal  
Husbandry & Dairying,  
Aarey Milk Colony,  
Bombay.

...Applicant.

By Advocate Shri H.T. Ameta.

V/s

1. The Superintendent,  
Randam Sample Poultry  
Performance Testing Centre,  
(Govt. of India),  
Ministry of Agriculture,  
Dept. of Animal Husbandry &  
Dairying, Aarey Milk Colony,  
Bombay.
2. The Union of India through  
The Secretary, Govt. of India,  
Ministry of Agriculture,  
Dept. of Animal Husbandry &  
Dairying, Krishi Bhavan,  
New Delhi.

... Respondents.

By Advocate Shri V.S. Masurkar.

ORDER (ORAL)

{Per Shri A.V. Haridasan, Vice Chairman}

The applicant who was appointed as Poultry Attendant, Group 'D' with effect from 31.8.1978 under the Randam Sample Poultry Performance Testing Centre, Bombay has filed this application praying that the letter dated 21.10.1994 issued by respondent No.1 may be held to be illegal, malafide and the respondent may be directed to appoint him on the post of Driver, Group 'C' in the scale of Rs. 950 -1440 in the office of respondent No.1, where he had been working on

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the post of Driver for the last six years and to re-instate him as Driver with effect from 1.7.1994. The facts of the case is as follows:

A Maruti Van was purchased in the office of respondent No.1 in the year 1987. There was no sanctioned post of Driver. The applicant took training in driving and obtained driving licence for Heavy and Light vehicle on 17.3.1988. It is alleged that thereafter the applicant used to be called to perform the duties of Driver at times. On 15.1.1993 a notification was issued calling for volunteers to drive this vehicle. In response to this the applicant put forth his application on 16.1.1993. Respondent No.1 by order dated 11.2.1993 called upon the applicant to drive the said vehicle in addition to the post of Poultry Attendant. Further later the applicant was appointed by respondent No.1 to act as Driver in the scale of Rs. 950 -1400 by order dated 12.7.1993. The appointment was for a period of three months initially. Further in successive year the period was extended upto 30.6.1994. From 1.7.1994 onwards one Shri Magan R. Nayya was taken as Driver. It is alleged that respondent No.1 had taken Rs. 10,000/- from the applicant in the months of February 1994 and that when the applicant demanded this money back, it was paid on 30.6.1994 and the applicant was not engaged as driver thereafter. The action on the part of respondent No.1 disengaging the applicant as driver and bringing Shri Magan Ranmchhod Nayya was malafide on account of enmity against the applicant who has demanded the return of money, alleges the applicant. Thereafter for filling up the post on regular basis, applications were invited and the applicant was also called upon to attend the interview on 5.10.1994.

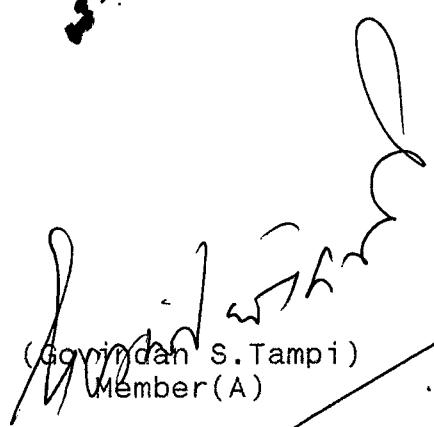
Respondent No.1 cancelled the selection and re-notified for filling up of the vacancies. Interview for selection was fixed to be held on 11.11.1994. In between the applicant sent a Lawyer notice on 16.10.1994 stating that the dis-continuance of adhoc appointment as Driver was the result of applicant demanding back borrowed money and calling upon him to appoint the applicant on the post of Driver within seven days threatening legal action on failure to comply with the demand. With these allegations the applicant filed this application for the relief as aforesaid.

3. The respondents resist the application. The allegations that respondent No.1 has borrowed Rs. 10,000/- from the applicant etc are denied. The respondent contend that the applicant was not issued order of adhoc appointment as Driver beyond 30.6.1994 as he was found to be negligent and was served with memo. Further in terms of the extant instructions adhoc service could not be continued beyond one year contend the respondent. The selection in which the applicant was participated was cancelled, according to the respondent as none of the candidates fulfilled the essential qualification. The applicant who did not have experience as Driver for 5 years was not eligible according to them.

4. We have heard the learned counsel on either side. As the incumbent in the office of 1st respondent having not been impleaded in his personal capacity the allegations against him that he took Rs. 10,000/- from the applicant, <sup>that</sup> he became inimical to the applicant for his asking for its return etc does not merit consideration.

5. The cancellation of the selection process dated 5.10.1994 cannot be faulted as none of the candidates including applicant was eligible. The applicant who did not have five years experience as Driver could not have been considered for selection as 5 years experience is an essential qualification under Recruitment Rules. In his application for the post of Driver he had indicated the nature of duties performed by him till 1993. It does not include driving. Just because he had a driving licence from 1988 onwards it cannot be held that he had driving experience from that date. That he occasionally had driven the car also cannot be taken as driving experience. Therefore we do not find any merit in the application.

6. In the result the application is dismissed without any order as to costs.

  
(Govindan S. Tampi)  
Member (A)

  
(A.N. Haridasan)  
Vice Chairman

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