

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 729 of 1994.

Dated this Wednesday, the 20th day of October, 1999.

P. K. Pahuja, \_\_\_\_\_ Applicant.

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

VERSUS

Union of India & Others, \_\_\_\_\_ Respondents.

Shri R. R. Shetty for \_\_\_\_\_ Advocate for  
Shri R. K. Shetty, \_\_\_\_\_ Respondents.

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

Hon'ble Shri S. L. Jain, Member (J).

- (i) To be referred to the Reporter or not ? *Yes*
- (ii) Whether it needs to be circulated to other Benches  
of the Tribunal ? *No.*

- (iii) Library. *Yes.*

*B. N. Bahadur*

(B. N. BAHADUR)  
MEMBER (A).

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Hon'ble Shri S. L. Jain, Member (J).

P. K. Pahuja,  
Junior Clerk at Bombay  
Base Office of Fishery  
Survey of India,  
Sasoon Docks, Colaba,  
Bombay - 400 005.

Applicant

(By Advocate Shri G. S. Wallia)

VERSUS

1. Union of India through  
The Director General,  
Fishery Survey of India,  
Botawala Chambers, 2nd. Floor,  
Sir P. M. Road,  
Bombay - 400 001.

2. The Zonal Director,  
Bombay Fishery Survey of India,  
Sasoon Dock, Colaba,  
Bombay - 400 005.

Respondents.

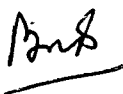
(By Advocate Shri R. R. Shetty for  
Shri R. K. Shetty).

O R D E R (ORAL)

PER : Shri B. N. Bahadur, Member (A).

This is an application made by Shri P. K. Pahuja seeking  
the relief in substance as follows :

- (a) This Hon'ble Tribunal will be pleased to call for  
the records and proceedings which led to the  
passing of the impugned order dated 26.05.1994  
and after going through its validity,  
constitutionality, propriety, quash and set aside  
the same.




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- (b) This Hon'ble Tribunal will be pleased to order the Respondents to consider the case of the applicant and promote him to the post of Senior Clerk from the date his junior Smt. R. P. Balchandani was promoted and fix the pay accordingly with arrears of pay and other consequential benefits.

2. The facts of the case are, that while working as Junior Clerk in the Bombay Base Office of Fishery Survey of India, he had been working as Senior Clerk on a purely adhoc promotion with effect from 18.10.1978 to 29.9.1987 (the latter date is stated to be 30.09.1986 by the respondents but this difference in date is not material to the point at issue). He was reverted, thereafter, to his original post of Junior Clerk. His grouse is that one Mrs. R. P. Balchandani, who was junior to him in the seniority list, was given adhoc promotion with effect from 02.02.1993 to 30.09.1993, and subsequently from 04.10.1993 to 31.03.1994, even though he was senior. It is in challenge to this, he comes before the Tribunal seeking the relief as mentioned above.

3. In the reply statement filed by the Respondents, it is stated that this promotion was purely an adhoc promotion, even though it continued for a long period, and since Mrs. Balchandani was working in a different office, even though at Mumbai, the applicant has no right, since they are working in different offices. It is stated that non-granting of adhoc promotion to the applicant, on the ground that he is not working in the office in which the short term adhoc vacancy has arisen, is perfectly justified. Other details regarding seniority has been provided



in the written statement and all allegations denied. Details regarding periods of officiation have also been indicated and a plea made that the application may be dismissed.

4. We have heard the Learned Counsel on both sides, and have perused the records in the case, including the rejoinder filed by the applicant. The Learned Counsel for the applicant argued the case strenuously and made the points reproduced, in gist, below :

(a) Although the promotion was on adhoc basis, since a common seniority list existed between the two different offices, this should have been honoured, and the principle of one below be applied in the facts and circumstances of the case.

(b) The action in making the adhoc promotion is not so in occous that it does not result in any adverse effect to the applicant.

(c) A right to promotion in preference to Mrs. Balchandani has therefore been created, and the respondents are under full obligation to honour that right.

5. Arguing the case on behalf of the respondents, the Learned Counsel made the following points :



- (a) The fact that two different offices are involved were important, as it is a well established principle, and settled position that adhoc promotions were given only to fill up only local vacancies, and overall seniority need not be considered.
- (b) The fact that these were two different offices were located in the same city did not create a special right for the applicant.
- (c) The applicant was Cashier in the office, and did not suffer much monetary loss. The period for which Mrs. Balchandani received adhoc promotion was not so long, and infact, the applicant had enjoyed the benefit of adhoc promotion for nearly 9 years when his overall seniors were in position. Having done that, he is now estopped from questioning the adhoc promotion of other persons.
- (d) The O.A. has become infructuous as Mrs. Balchandani is also reverted, and now regular promotions have been ordered subsequently, as per seniority, causing no injustice to the applicant.
6. We have considered all the facts carefully. On the one hand it is clearly established, and settled law, that overall seniority cannot be made as a ground for a right in the case of

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promotions which are clearly adhoc. Promotions involved here are adhoc admittedly. The only other condition that remains is that the seniority should be considered if ad hoc promotion is in the same office. Here admittedly, the two offices are different, i.e. one being a Bombay Base Office of the Fishery Survey of India at Sasoon Dock, Bombay and the other being the Bombay Headquarters of Fishery Survey of India at Sir P. M. Road. There can be no gain-saying the fact that though it may appear odd to the interested party, it is infact a different office. Thus the principle that these are two different offices and overall seniority cannot be accepted as a right, does hold water.

7. It must be observed here that much of this problem is caused because of some kind of inefficiency, where a regular vacancy has not been filled for the period of whole decade. Obviously, this has occurred because of the location of the offices in different coastal cities, and reluctance of people to move out, etc., but these are facts which this Tribunal cannot go into. Perhaps, it would have been more desirable, and efficient, that promotion on regular basis should have been settled once and for all. In this regard, the rejoinder of the applicant is also seen, but cannot provide him any help.

8. Be that as it may, it is clear from the facts of this case that no right can be said to be created in favour of applicant, since different offices are involved. There is also



some merit in the argument of the Learned Counsel for the respondents that while the applicant availed of promotion for 8 or 9 years, there were other people who could have been said to be similarly hit. In any case, no right can be said to be created and now as at present, the situation or the anomaly pointed out by the applicant does not remain.

9. In view of the above discussions, no case is made out by the applicant for our intervention. Consequently, this application has to be, and is hereby, dismissed. No order as to costs.

  
(S. L. JAIN)

MEMBER (J)

  
(B. N. BAHADUR)

MEMBER (A)

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