

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 1206/94

24.8.99
Date of Decision:

J.A.Sathaye

Applicant.

Shri G.K.Masand

Advocate for
Applicant.

Versus

Union of India & Ors.

Respondent(s)

Sh.Karkera for Sh.P.M.Pradhan for R-1&2.

Advocate for
Respondent(s)

Sh.Suresh Kumar for R-3.

CORAM:

Hon'ble Shri. D.S.Bawej, Member (A)

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

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

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

D.S.BAWEJA
(D.S.BAWEJA)
MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

OA NO. 1206/94

Dated this the 24th day of August 1999

CORAM: Hon'ble Shri D.S.Bawej, Member (A)
Hon'ble Shri S.L.Jain, Member (J)

Jayashree Anil Sathaye,
Assistant Director
(Official Language),
Currency Note Press,
Nasik Road.
R/o 'Vishram',
Sathaye Bungalow, Gele
Colony, Nasik-422 002.

... Applicant

By Advocate Shri G.K.Masand

V/S.

1. The Union of India
through Secretary,
Ministry of Finance,
Department of Economic
Affairs, New Delhi.

2. The General Manager,
Currency Note Press,
Nasik Road.

3. Shri Sudhakar Vasant Lekhande,
Junior Hindi Translator,
Currency Note Press,
Nasik Road.

... Respondents

By Advocate Shri S.S.Karkera
for Shri P.M.Pradhan for
Respondents No. 1 & 2.
Shri Suresh Kumar for
Respondent No. 3.

O R D E R

(Per: Shri D.S.Baweja, Member (A))

The applicant was appointed as Junior Hindi Translator on 8.6.1984 in Currency Note Press, Nasik Road on being recruited through Staff Selection Commission. A vacancy of Hindi Officer (now designated as Assistant Director (Official Language) fell vacant in October, 1991 as the incumbent Shri R.K.Gupta went on deputation to Ministry of Railways. The applicant was appointed as Hindi Officer in place of Shri R.K.Gupta on adhoc basis as per the promotion order dated 3.4.1992.

Junior
There was a cadre of two posts of Hindi Translator which formed and the feeder cadre for promotion as Hindi Officer.

The Respondent No. 3 Shri S.V.Lokhande who is the Junior other Hindi Translator, as per the applicant, was appointed on adhoc basis from 2.5.1983 and was finally appointed on regular basis on 26.12.1986 after being selected by Staff Selection Commission.

also
The Respondent No. 3 belongs to Scheduled Caste category. The applicant submits that the Respondent No. 3 has challenged the promotion as well as seniority of the applicant through OA.NO. 1254/92. The applicant has filed the present OA. on 20.10.1994 on the apprehension that the respondents are likely to promote the Respondent No. 3 as Assistant Director (Official Language) treating the vacancy arising out of

as
deputation of Shri R.K.Gupta reserved for
Scheduled Caste Category. It is also contended
that the respondents are not promoting the applicant
on regular basis inspite of clear vacancy available.

The applicant has sought the following reliefs :-

(a) The respondents be restrained from treating
the single post of Assistant Director (Official
Language) as a reserved post. (b) to direct the
respondents not to entertain the claim of Respondent
No. 3 for promotion treating the vacancy as reserved.
(c) to direct the respondents to appoint the applicant
as Assistant Director (Official Language) on permanent
basis.

2. The applicant has contended that in view
of the law laid down by the Hon'ble Supreme Court
in the case of Dr. Chakradhar Paswan vs. State of
Bihar, ATR (1) 1988 p. 671, the reservation does not
apply to a single post and therefore the Respondent
No. 3 cannot be allowed promotion against the vacancy
arising out of deputation of Shri R.K.Gupta reserved
for Scheduled Caste category.

3. The respondents have filed the written
statement opposing the application. The respondents
have contended that with reference to the judgement
of Hon'ble Supreme Court in the case of Dr. Chakradhar
Paswan, the Department of Personnel & Training has
not modified the carrying forward of single vacancy.

The matter was therefore referred to the Ministry of Finance and the Ministry of Finance as per letter dated 20.10.1994 has advised that filling up the vacancy of the Assistant Director (Official Language) be done as per the existing instructions. As regards the filling up the vacancy on regular basis, the respondents have contended that the same has not been done in view of the OA. No. 1254/92 filed by the Respondent No. 3 with regard to seniority and promotion of the applicant.

4: The Respondent No. 3 has not filed any written statement. The applicant has also not filed any rejoinder reply for the written statement of the official respondents.

5. It is admitted fact that the applicant has been promoted as Hindi Officer (Assistant Director (Official Language) on account of vacancy arising as a result of the incumbent Shri R.K.Gupta going on deputation to Ministry of Railways. As indicated earlier, it is noted that the present OA. has been filed mainly on the apprehension that the respondents are likely to fill up the vacancy of Assistant Director (Official Language) against which the applicant has been promoted on adhoc basis by treating it as a reserved vacancy for Scheduled Caste category and promote Respondent No. 3 who is junior to the applicant. The applicant has submitted that no reservation can be

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provided when there is a cadre of one post only and he has relied upon the judgement of the Hon'ble Supreme Court in the case of Dr. Chakradhar Paswan. The respondents, on the other hand, have contended that the Department of Personnel & Training has not regard to reservation for a revised instructions with 1 single post and therefore as advised by the Ministry of Finance as per the letter dated 20.10.1994, the filling up of single vacancy is to be done as per the existing instructions. The issue of reservation in respect of single post cadre is no longer res-integra as the same has been concluded by the Constitutional Bench of the ^{Hon'ble} Supreme Court by the recent judgement in the case of Post Graduate Institute of Medical Education & Research, Chandigarh vs. Faculty Association & Ors., 1998(4) Supreme 110. In this judgement, the Hon'ble Supreme Court has held that there can be no reservation in a single cadre post. In view of this, the respondents are required to follow the law laid down by the Hon'ble Supreme Court. In the present case, it is admitted fact that there is only one post of Assistant Director (Official Language) and therefore the respondents are required to follow the law laid down by the Hon'ble Supreme Court and no reservation is to be provided.

6. As regards the claim of the relief of the applicant for his promotion on permanent basis, the respondents have averred that the promotion on regular basis is held up on account of pendency of OA.NO.1254/92

(Q)

filed by Respondent No. 3. Through this OA., the Respondent No. 3 has claimed seniority by counting his period of adhoc service for the purpose of seniority and consequential promotion as Assistant Director (Official Language) in place of the applicant on account of being senior to her. This OA. has been already heard and the order has been passed dismissing the OA. In view of this, the respondents may consider for regular promotion of the applicant as per the extant rules.

7. In the result of the above, the OA. is allowed with the following directions :-

- (a) Since the cadre of Assistant Director (Official Language) comprises of one post only, no reservation shall be provided in view of the law laid down by the Hon'ble Supreme Court in the judgement cited above.
- (b) The applicant shall be considered for regular promotion as Assistant Director (Official Language) as per the extant rules.
- (c) No order as to costs.

S.L.Jain
(S.L.JAIN)
MEMBER (J)

D.S.Baweja
(D.S.BAWEJA)
MEMBER (A)

mrj.