

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO: 1049/94

DATE OF DECISION: 30/3/2001

Shri J. Ramamurthy Applicant.

Shri R.C. Kotiankar Advocate for
Applicant.

Versus

Union of India and others. Respondents.

Shri B.Ranganathan for Shri J.P.Deodhar Advocate for
Respondents

CORAM

Hon'ble Shri Kuldip Singh, Member (J)

Hon'ble Ms. Shanta Shastri, 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. ✓


(Kuldip Singh)
Member (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO: 1049/94

the 20th day of March 2001

CORAM: Hon'ble Shri Kuldip Singh, Member(J)

Hon'ble Ms. Shanta Shastri, Member(A)

J. Ramamurthy
Chief Administrative Officer
Bhabha Atomic Research Centre,
Central Complex
Trombay, Bombay.

* ...Applicant.

By Advocate Shri R.C. Kotiankar

V/s

1. Union of India Through
Secretary to
Government of India,
Department of Atomic Energy
Anushakti Bhavan,
CSM Marg., Bombay.
2. Secretary to Govt. of India
Dept. of Personnel
Training & Public Grievances,
New Delhi.
3. Addl. Secretary to Govt. of India
Department of Atomic Energy
Anushakti Bhavan,
CSM Marg., Bombay.
4. Mr. K.L.A. Subramaniam,
Deputy Secretary
Department of Atomic Energy,
Anushakti Bhavan
CSM Marg., Bombay.
5. Mr. P. Venugopalan
Deputy Secretary
Department of Atomic Energy
Anushakti Bhavan
CSM Marg. Bombay.

...Respondents

By Advocate Shri B. Ranganathan for Shri J.P. Deodhar.

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O R D E R

{Per Shri Kuldip Singh, Member (J)}

The applicant in this case impugnes letter at Exhibit(A) whereby the applicant^{as} alleged to have been deprived of the post of Deputy Secretary in the Department of Atomic Energy (DAE). As such he has prayed for quashing the appointment of Respondents No.4 and 5 as Deputy Secretary in DAE and has also prayed that respondents No.1 and 2 be restrained from making appointment of any departmental officers belonging to the centralised cadre of Administrative Officers of DAE for the post of Deputy Secretary in DAE until final decision of the OA.

2. The facts in brief are that the applicants^{bel} belongs to the centralised cadre of Administrative Officers of the DAE and had been promoted to the post of Administrative Officer - III (Group A) post in the pay scale of Rs. 3000 - 4500 with effect from 29.3.1984. He has^h further submitted that the next promotion of the incumbent of the post of Administrative Officer III and Under Secretary is to the cadre posts of Senior Administrative Officer (Rs. 3000 - 5000).

3. The applicant further submits that the post of Senior Administrative Officer and Chief Administrative Officer are selection posts and on merit basis. The interse seniority in the cadre of Senior Administrative Officer is as assigned by DPC in the panel and the officers appointed as Senior Administrative Officers rank enblock senior to other centralised administrative cadre officers.

4. The applicant was subsequently posted as Chief Administrative Officer and Accounts Officer at Hyderabad on 1.7.1991.

5. The grievance of the applicant started when two vacancies in the cadre of Deputy Secretary occurred in the Secretariate of DAE during the year 1993. As per the recruitment Rules the post of Deputy Secretary can be filled up by transfer on deputation of officers holding centralised administrative cadre post of Chief Administrative Officer (Rs. 3700 -5000) to the extent posts are ear-marked for departmental officers. He further states that the post is also a selection post and persons should have been appointed on the basis of seniority-cum-fitness.

6. He further claims that the applicant being in the cadre of Chief Administrative Officer was at serial No.11 in the seniority list but the respondents appointed respondents No.4 and 5 to the post of Deputy Secretary, despite the fact that they are junior to the applicant in the cadre of Chief Administrative Officer as per the list furnished by the department.

7. He further alleges that the post of Chief Administrative Officer (Rs. 3700 - 5000) carries higher status and thus the applicant has been deprived of the post which is violative of Article 14 and 16 of the Constitution of India and the appointment of Respondents No.4 and 5 is liable to be quashed and the applicant be appointed to the post of Deputy Secretary.

8. The respondents have contested the petition on the main plea that the post of Deputy Secretary ^{is} to the ex-cadre post and as per Recruitment Rules an officer of Centralised cadre of Chief Administrative Officer can be appointed on deputation basis as Deputy Secretary. The post is non-selection and no DPC is required to be held. The department after considering the various pro's and cons had selected respondent No.4 and 5 and the applicant has no right to challenge the same because it is neither a promotional post in the cadre of hierarchy, that there is no vested right for the applicant to the post of Deputy Secretary as per Recruitment Rules for the said post. The respondents further submitted that the name of the applicant was also considered but the department appointed respondents No.4 and 5 and there are various seniors to the applicant whose names ^{were} ~~was~~ also considered and they have not been recommended for the post of Deputy Secretary. Since it is non selection and excadre post.

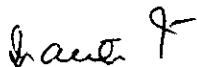
9. We have heard the learned counsel for the parties and perused the records and also gone through the Recruitment Rules. The recruitment rules have been annexed at Annexure F which show that mode of appointment to the post of Deputy Secretary ^{is} 50% by transfer on deputation of the Departmental Officers, 50% by transfer on deputation of other officers. We find that ^{in the} ~~mode~~ of recruitment for promotion of centralised cadre ~~of~~ post of Chief Administrative Officer, though Recruitment Rules suggests that a Departmental Officer can be appointed by transfer on deputation but that does not suggest for placing cadre officer to the post of Deputy Secretary. For promotion to the post of Deputy

Secretary on transfer on deputation basis the DPC is required to be held and the rules and principle for considering the candidate for promotion to higher post are to be followed by the guide lines of the DOPT.

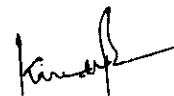
10. The mode of Recruitment as given in the Recruitment Rules does not suggest that the applicant has a vested right to be appointed on the said post of Deputy Secretary which is an ex-cadre post.

11. Further the department pleaded that the case of the applicant was also considered for that purpose. The learned counsel for the respondents has also produced the record to show ~~that~~ as to how the applicant was considered for the said post.

12. On going through the department file we find that no irregularities have been committed by the department in not recommending the name of the applicant. As such we are of the considered opinion that this application has no merit and the OA is liable to be dismissed. Accordingly the OA is dismissed. No order as to costs.



(Ms. Shanta Shastry)
Member (A)



(Kuldip Singh)
Member (J)

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