

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

R.P.NO. 98/95

in

OA.NO. 10/95

Shri R.K.Jain

... Applicant

V/S.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande
Hon'ble Member (A) Shri P.P.Srivastava

Tribunal's Order by Circulation

Dated: 27.9.95

(PER: P.P.Srivastava, Member (A))

By this Review Petition the review petitioner
seeks review of the order passed on 4.8.1995 while
admitting the OA. The order reads as under :-

" Mr. S.R.Atre, Counsel for applicant. Mr.
V.S.Masurkar, Counsel for respondents.

ADMIT.

Reply has been filed.

Mr. Masurkar, Counsel for respondents states
that the persons whose promotions are disputed
on the ground of new seniority list and the
position which the applicant is claiming have
not been made parties to the present OA.

Mr. Atre states that he does not want to
challenge those officer's promotions and
and claim any relief against them but seeks
his position in the seniority list and
consequential monetary relief based on the
position of the juniors.

In view of this the petition can proceed.
No interim relief.

If the respondents want to file a sur-rejoinder,
it may be filed within four weeks.

Case be listed before Registrar on 19.9.1995
and thereafter keep in sine-die list."

The petitioner has sought the two paras after the word
'ADMIT' in the above order to be deleted. The petitioner
has also sought to amend the application by introducing
the amendment as Annexure- 'A-1' to the review petition.

2. We have considered the matter. The petitioner's counsel has stated at the time of hearing that he does not want to challenge the officers' promotions and claim any relief against them and the order dated 4.8.1995 was passed after this statement by the counsel for the applicant Mr. S.R.Atre. Since the order 4.8.1995 was passed on specific pleadings of the counsel, we do not see that this is a case which would come under the purview of the review. If the petitioner wants to challenge the promotions of officers and claim any relief and also wants to amend the OA., he may file an M.P. for the same. ^{If so advised.} The review petition is dismissed with the above observations.


(P.P. SRIVASTAVA)

MEMBER (A)


(M.S. DESHPANDE)

VICE CHAIRMAN

mrj.

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:10/1995
DATED THE 12TH DAY OF DEC,2001**

**CORAM:HON'BLE SHRI S.R.ADIGE, VICE CHAIRMAN (A)
HON'BLE SHRI S.L.JAIN, MEMBER(J)**

Shri R.K.Jain,
R/O.Quarter No.BPT 38,
Dev Nagar,
Karol Bagh,
New Delhi-110 005.

... Applicant

V/s.

1. Union of India,
Through The Secretary To the Government of India,
Ministry of Communications,
Department of Telecommunications,
Sanchar Bhavan,
New Delhi - 110 001.

2. The Chairman,
Telecom Commission,
Sanchar Bhavan,
New Delhi - 110 001. ... Respondents

By Advocate Shri V.S.Masurkar

(ORAL)(ORDER)

Per Shri S.R.Adige, Vice Chairman(A)

Applicant impugns the validity of the seniority list of Assistant Engineer (E) P&T Civil Wing issued vide memo dated 2/5/92 (Anneuxre A-1), to the extent mentioned in the OA and in office memo dated 22/6/1993. He seeks declaration that he is covered by Initial Constitution Clause brought in force by the Recrument (Amendment) Rules, 1984 and is entitled to be placed after serial no.7 in the aforesaid seniority list dated 22/5/93. ~~However~~, Consequential benefits have also been prayed for, including reconsideration of review of his case for promotion for the post of Executive Engineer(E).

2. We have heard the applicant Shri R.K.Jain in person and Shri V.S.Masurkar, Counsel for Respondents.

3. Shri V.S.Masurkar has invited our attention to Central Administrative Tribunal, Mumbai Bench order dated 19/10/2001 in OA Nos.39/99, 40/99 and 41/99. In OA 40/99, the applicant was private respondent no.4 and we notice from the Tribunal's order dated 19/10/2001 disposing of all the aforesaid three OAs that applicant was present during hearing in person.

4. These three OAs were disposed by aforesaid order dated 19/10/2001, whereby the impugned office memo dated 9/1/98 revising the seniority list of Assistant Engineers(E) were quashed, and respondents were directed to recast the seniority list having regard to the judgements of the Supreme Court and the observations made in the aforesaid Order. Applicants were held entitled to consequential benefits according to law.

5. During the course of hearing, respondents counsel Shri Masurkar informed us that the seniority list of Assistant Engineers(E) dated 22/5/92, was itself revised in 1998 and by the aforesaid order of the Tribunal dated 19/10/2001, the seniority list revised in 1998 had now also been quashed and set aside.

6. Shri Masurkar therefore informed us that while recasting the seniority pursuant to the Tribunal's order dated 19/10/2001, objections would be invited and disposed before the seniority list is finalised.

7. During the course of hearing, applicant Shri R.K.Jain stated that his seniority in the grade of Assistant Engineer(E) already remained settled in the light of earlier orders of the Tribunal. It will be open to applicant to bring the contents of

such orders of the Tribunal to the notice of the ~~Appellate~~ ^{appropriate} Authority while they are inviting objections to ^{the} seniority list which they are now required to recast pursuant to the Tribunal's order dated 19/10/2001, and we call upon respondents to consider the same in accordance with rules and instructions as well as ^{as and} judicial pronouncements on the subject, ~~and~~ when applicant files any representation, at the time ~~of~~ objections are invited while recasting the seniority list.

8. If after disposing of applicants objections any grievance still survives, it will be open to applicant to challenge the same through appropriate proceedings in accordance with law and instructions.

9. The OA is therefore disposed of in terms of what has been stated above. No costs.

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

app

Adige
(S.R.ADIGE)
VICE CHAIRMAN

dt. 27/12/01
order/Judgement despatched
to Appellant Respondent(s)
on 27/12/01
W

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

CONTEMPT PETITION NO: 102/2002 IN
ORIGINAL APPLICATION NO: 10/95.

TRIBUNAL'S ORDER

4
DATED: 28.8.2003

Shri S.S. Karkera counsel for the applicant.

Shri V.S. Masurkar counsel for the respondents.

2. The Petitioner in Contempt Petition No. 102/2002 has made a grievance that the directions given in the OA are not obeyed by the original respondents and the respondents are not implementing the seniority list.

According to the learned counsel for the applicant, the non-implementation of seniority list deprives the applicant from being promoted. Therefore necessary action are required to be taken against the respondents.

Shri Masurkar counsel for the respondents have pointed out that seniority list is under challenge before the Hon'ble High Court and private respondents have already moved the Hon'ble High Court for challenging the orders of the Tribunal. According to him the applicant is also a party in one or the other matter. It is true that there is no stay of the order so far. The respondents states that the direction given in the OA cannot be implemented by the department in view of the matters being sub-judice by the Hon'ble High Court. Since the seniority list which is sought to be implemented by the respondents is already under challenge before the

:2:

Hon'ble High Court, the department evidently cannot operate the seniority list and give any promotions on the basis of that seniority list. We therefore find that this C.P. as moved by the applicant at this juncture cannot be decided and the department cannot be held to be willfully dis-obeying the orders of the Tribunal. The C.P. therefore deserves to be rejected as the orders passed in the OA are not capable of being obeyed at present. However, it will be open to the applicant to move another C.P. or take recourse to any other proceedings available after the Hon'ble High Court decides the question of seniority, if the applicant is still remains aggrieved. C.P. 102/2002 stands disposed of with these observations. Notice issued on C.P. is discharged.

SP
(Shankar Prasad)
Member (A)

AS
(A.S.Sanghvi)
Member (J)

NS

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.**

**Contempt Petition No.52/2015
in
Original Application No.10/1995**

Date of decision : November 15, 2016

**Coram: Hon'ble Shri Arvind J. Rohee, Member (J)
Hon'ble Ms.B. Bhamathi, Member (A).**

R.K. Jain,
Worked as: Retired Executive
Engineer, Under MTNL Mumbai,
Residing at: 26, Lordgunj Near
Bhooramal Dharmashalia,
Jabalpur, Madhya Pradesh-482 002. . .Petitioner.

(By Advocate Ms.V.Y. Agane).

Versus

1. Shri M.F. Farooqui,
Secretary to the Government
of India, Ministry of
Communications, Department of
Telecom, Sanchar Bhavan,
Ashoka Road,
New Delhi - 110 001.

2. Shri A.K. Jarg,
The Chairman,
Telecom Commission,
Sanchar Bhavan,
New Delhi - 110 003. . . Contemnors/
Respondents.

(By Advocate Shri V.S. Masurkar).

**Order (Oral)
Per : Arvind J. Rohee, Member (J)**

When this matter was taken up for consideration, it is submitted that the Hon'ble High Court in Writ Petition Nos.2421/2002 and 2420/2002 filed by the respondents have granted stay vide order dated 09.06.2015 to the impugned order passed by this



Tribunal. This position is not disputed by the learned Advocate for the applicant. It is submitted by learned Advocate for the respondents that those Writ Petitions are now pending for final hearing.

2. In view of the fact that the Hon'ble High Court has already stayed the impugned order, it will not be appropriate to proceed with the contempt petition. This being the position on record, the Contempt Petition stands disposed off.

3. M.A.940/2015 filed by the applicant for expeditious hearing of this Contempt Petition also stands disposed of.

4. Notice issued to respondents is discharged.

B. Bhamathi
(Ms. B. Bhamathi)
Member (A)

Arvind J. Rohee
(Arvind J. Rohee)
Member (J).

H.

order
✓ 21/11

Order / Notice despatched
to Applicant / Respondent(s)
on:...../...../.....
X/...../.....

Call 1/16