

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH.

ORIGINAL APPLICATION NO. : 647/95

Dated this Friday the 7th day of January 2000.

Shri P.T. More

Applicant

Shri N.C. Saini

Advocate for the
Applicant.

VERSUS

Union of India & Others.

Respondents.

Shri V.S. Masurkar

Advocate for the
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 ? **No**
- (ii) Whether it needs to be circulated to other Benches
of the Tribunal ? **No**
- (iii) Library. **No**

B. N. Bahadur

(B. N. BAHADUR)
MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

Original Application No.647/95

Dated this Friday the 7th Day of January, 2000.

Coram : Hon'ble Shri B.N. Bahadur, Member (A)
Hon'ble Shri S.L. Jain, Member (J)

Shri Prakash Tarachand More,
Working as Welder Gr.III
under Sr.D.EE.(TRS) Kalyan,
R/at Block No.A-492/983,
Lal Chakki, Ulhasnagar-4,
Dist. Thane.
(By Advocate Shri N.C. Saini)

.. Applicant.

Vs.

1. The Union of India, through
the General Manager,
Central Railway, Bombay V.T.
2. The Divisional Rly. Manager,
Central Railway, Bombay V.T.
3. The Sr.Divl.Elect.Engineer (TRS),
Central Railway, Kalyan Loco Shed,
Kalyan Dist. Thane.
(By Advocate Shri V.S. Masurkar)

.. Respondents.

O R D E R (Oral)
(Per : Shri B.N. Bahadur, Member (A))

This is an application filed by Shri P.T. More working as
Welder Gr.III in the employment with Respondents seeking the
relief from this Tribunal as follows:-

"(i) The applicant be provided due seniority
as per seniority list.

(ii) The applicant be paid difference of pay
between grade Rs.210-290 and grade Rs.260-400
from 5.10.1981 to 12.2.1986.

(iii) The applicant be also paid difference of
pay between grade Rs.950-1500 (RPS) and grade
Rs.1200-1800 (RPS) from 7.7.1994 till the posting
of the applicant in Grade Rs.1200-1800 (RPS0).

...2

B.N.B.

(iv) Any other and further relief as this Hon'ble Tribunal deems fit and proper in the interest of justice be provided to the Hon'ble Tribunal deems fit and proper in the interest of justice be provided to the applicant".

As can be seen from the facts in the application, and from the arguments made in detail by Learned Counsel for the applicant before us, the grievance of the applicant is that juniors have been promoted, where he should have been promoted to the Grade of Welder Gr.II. The applicant belongs to the Scheduled Caste and was recruited as Khalasi, and, subsequently promoted to the post of Welder Gr.III. The applicant has based his claim by relying on the document annexed by him at Annexure 'C' (Page 2 of the paper book). He took us over great detail to the various dates in this Annexure, to make the point that the consideration and promotion of his juniors viz. S/Shri Zope and Mathai were wrongly made.

2. Learned Counsel for the applicant has also made a grievance of his not being promoted in 1981. When the issue, of the jurisdiction of this Tribunal regarding grievances arising before November, 1982 was brought up, he stated that it may be decided as per law. We are therefore, not going into this *part of the* matter as it is barred by jurisdiction in view of provisions of Section 21 of Administrative Tribunals Act and consider only the promotion made in August, 1994, against which *too* the applicant has a grievance.

3. Learned Counsel for the applicant strenuously made the point that even assuming that it was correct that the SC quota

...3..

had been completely filled in, as asserted by the Respondents, the applicant was eligible for consideration for promotion to a general category vacancy also, in view of his seniority over the said Shri Zope.

4. ~~Learned~~ Learned Counsel for the Respondents took us over the facts of the case in detail after having argued first against the jurisdiction of the Tribunal in regard to 1981 promotion made. He also contended that the application of Shri More suffered in view of non-joinder of the affected parties viz. Shri Zope and Mathai. This point has been taken by the Respondents in their written reply also.

5. ~~Learned~~ In regard to the point relating to the seniority, some doubt had arisen in regard to the factual correctness of the statement at Page 11 on the last hearing date i.e. 4.1.2000. We therefore gave opportunity for production of record ^{at the time of} ~~of~~ the last ^{Pond} hearing, and this been done today by the Learned Counsel for the Respondents. One important point has been brought to our notice is that the date of appointment in respect of Shri A.R. Zope ^{as Pond} noted in Annexure 3 (Page 11) filed by the applicant is totally wrong. We have seen the record produced by the Respondent's Counsel today and find that it is entered as 7th November, 1975 and not 23rd October, 1979 as in the Annexure referred to.

6. ~~Learned~~ We have considered all the papers filed in the case and have been seen the original records produced as mentioned above.

Pond

...4..

We have considered the detailed arguments made before us by the Learned Counsel on both sides.

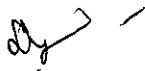
7. Having rejected the contentions on 1981 promotion already, we first move to the point of non-joinder of Shri Zope as a party in the case. On the facts and circumstances it is clear to us that this is quite a fatal defect. Shri Zope has been promoted and would be materially effected if a judgement in favour of the applicant is to be given in this O.A. This ^{important point} technical shortcoming is further compounded by the fact that the document filed at Annexure 'C' (at page 11) by the applicant has come in severe doubt for reasons as discussed above and no reliance can be placed on it. Hence in the interest of justice it will not be justified to allow this O.A. not only for a material technical defect but also for the weakness on merit regarding incorrect date given by the applicant.

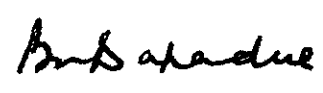
8. Learned Counsel for the Respondent had also argued the case before us explaining how and why the name of applicant was not considered. This point have been made in paragraphs 9, 11 and 12 of the written statement of the Respondents. In view of the position explained above, we are not going into the details of these contentions.

Bans
..

...5..

9. In view of the discussions made above we are not convinced that there is any ground for interference by us in the case. In the consequences, this application is hereby dismissed. There will be no order as to costs.


(S.L. Jain)
Member (J)


(B.N. Bahadur)
Member (A).

H.