

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.280/1997.

Tuesday, this the 22nd day of January, 2002.

Coram: Hon'ble Shri Justice Birendra Dikshit, Vice-Chairman,
Hon'ble Shri B.N.Bahadur, Member (A).

V.B.Zumbre,
Vocational Instructor,
Tool and Die Making,
Advanced Training Institute
Sion,
Mumbai - 400 022.

...Applicant.

(By Advocate Shri B.Dattamurthy)

v.

1. Director,
Advanced Training Institute,
Sion,
Mumbai - 400 022.
2. The Regional Director,
Apprenticeship Training,
Sion,
Mumbai - 400 022.
3. Union of India through,
Director of Training,
Office of Director General,
Employment and Training,
Shram Shakti Bhavan,
New Delhi - 110 001.
4. M.P.Morey,
Vocational Instructor,
Advanced Training Institute,
Mumbai - 400 022.
5. S.S.Lokhande,
Vocational Instructor,
Advanced Training Institute,
Mumbai - 400 022.

...Respondents.

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

: O R D E R (ORAL) :

B.N.Bahadur, Member (A).

The applicant in this case, Shri V.B.Zumbre, comes up to this Tribunal challenging two office orders both dt. 14.3.1997 (copy at pages 12 and 13 of this OA). The applicant is aggrieved

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at his not being promoted to the post of Maintenance Mill-Wright which is a Group 'C' non-gazetted post. The applicant was working, at the time of filing of this OA (i.e. on 18.3.1997), as Vocational Instructor (Tool and Die-Making). We have seen the papers in the case and have heard Learned Counsel viz. Shri B.Dattamurthy for the applicant, Shri R.K.Shetty for Respondent Nos. 1 to 3, Shri R.R.Shetty for R-4. None present for R-5. We have considered the arguments made and seen the papers in the case.

2. The stand taken by the Respondents, and actively supported by Learned Counsel for R-4, is that the applicant was not considered for promotion to the post of Maintenance Mill-Wright because he is not eligible, since he is not from the relevant eligible Trade. In this context, it is a well known position that the Recruitment Rules will be of main importance and the main relevant support that will be available to the applicant. We have gone through the copy of the Recruitment Rules as available on record (at Exhibit - R-1).

3. Learned Counsel for the applicant Shri Datta Murthy argued that the Recruitment Rules makes persons in the category of Vocational Instructors eligible for promotion. There is no categorisation in the Recruitment Rules. The stand of the Respondents is that the same Recruitment Rules indicate that while Vocational Instructor with 5 years regular service are eligible to the post of Maintenance Mill-Wright, the experience

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required is required only in the relevant unit fulfilling the trade requirements. This is, in fact, the main stand of the Respondents. We have seen the various papers that were referred to by the Learned Counsel for the parties, specially in regard to the technical ramification of the eligibility of the applicant to the post of Maintenance Mill-Wright. Arguments were made on both sides not only on the Recruitment Rules, but on Exhibit - R-5, which is titled as follows:

"LIST OF TRADES DESIGNATED UNDER THE APPRENTICES ACT 1961 - ALONG WITH THE DURATION OF TRAINING, REBATE ALLOWED AND MINIMUM EDUCATIONAL QUALIFICATION AS SPECIFIED IN SCHEDULE-1 OF APPRENTICESHIP RULES, 1962."

It would appear from these papers that the persons in trades like Fitter are eligible for promotion to areas in Tool & Die-Making but the converse is not true. It would appear from a perusal of these papers that areas of promotion to which persons in the trade in which applicant works (Tool & Die Making) are more restricted than others. Be that as it may. When we tried to go in detail, we find that it involves interpretation of technical details vis-a-vis eligibility in terms of Recruitment Rules. As per law well settled by the Apex Court, Courts and Tribunals like ours are constrained from taking up assessments especially in technical areas where we will have to analyse the eligibility & the meaning of Recruitment Rules. The Tribunal will not go into these areas, as per settled law.

4. Our attention was drawn to application/representation made on 3.2.1997 by the applicant to the Director General of Training, D.G.E.T., Ministry of Labour, Shram Shakti Bhavan, Rafi Marg, New

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Delhi - 110 001. In this Original Application applicant has enclosed a representation which he has made to the Director. According to the applicant and his learned counsel, till today, this has not been replied to. However, we find that soon after making this representation on 3.2.1997, the applicant has come up with this OA before this Tribunal, the OA having been filed on 18.3.1997. The learned counsel for the applicant did say that he had to come before us with an OA because he wanted to challenge the promotion that had been made. Be that as it may, we do feel that the best course in the interest of justice would be that the matter is decided by the Head of the Organisation viz. the Director General of Employment and Training, Ministry of Labour, Shram Shakti Bhavan, Rafi Marg, New Delhi. The decision to be taken by D.G.E & T would be in regard to the eligibility of the applicant who is in the Tool & Die-Making trade for promotion to the post of Maintenance Mill-Wright. In fact, this will be the specific point which would have to be decided by the D.G.E & T. Since details much beyond what has been made in the application dt. 3.2.1997 have come up in this OA, as also the stand of the Private Respondents, it would be appropriate if this OA is treated as a representation and decided on the point specifically noted above.

5. Accordingly, this OA is disposed of with a direction to the Director General of Employment and Training, Ministry of Labour, Government of India, New Delhi to treat this OA as a

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representation and decide the matter as referred to above. The decision in this regard will be taken on merits within a period of three months from the date of receipt of a copy of this order. The Learned Counsel for the official Respondents Shri R.K.Shetty undertakes to send a copy of the OA (with complete pleadings) and a copy of this Order to the D.G.E & T, New Delhi. The OA is disposed of as above. No Costs.

B. Bahadur

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

B. Dikshit

(BIRENDRA DIKSHIT)
VICE-CHAIRMAN

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24.2.2002
order/Judgementⁿ despatched
to Applicant/Respondent (s)
on 15.2.2002

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