

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 490/97

Date of Decision : 22<sup>nd</sup> January 2002

L.H.Vaidya Applicant

Shri B.Ranganathan Advocate for the Applicant.

VERSUS

Union of India & Ors. Respondents

Shri V.G.Rege for R-1&2 Advocate for the Respondents  
Shri Suresh Kumar for R-3.

CORAM :

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

The Hon'ble Shri G.C.Srivastava, Member (A)

- (i) To be referred to the reporter or not ? *yes*
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ? *no*
- (iii) Library *yes*

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

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.No.490/97

Dated this the 22<sup>nd</sup> day of January 2001.

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

Hon'ble Shri G.C.Srivastava, Member (A)

L.H.Vaidya (S.T.),  
Radio Technician,  
Office of the Asst.Director  
of Communication (Customs),BPS  
Complex, Indira Dock,  
Ballard Estate, Mumbai.

...Applicant

By Advocate Shri B.Ranganathan

vs.

1. Union of India  
through the Commissioner,  
Central Excise, Mumbai-II,  
Piramal Chambers, 9th Floor,  
Jijibhoy Lane, Lalbaug,  
Parel, Mumbai.
2. The Deputy Commissioner (P&V),  
Central Excise Mumbai-II,  
Piramal Chambers, 9th Floor,  
Jijibhoy Lane, Lalbaug,  
Parel, Mumbai.
3. P.D.Hiware (SC),  
Radio Technician,  
Office of the Superintendent  
of Customs Preventive,  
Dahanu, Dist. Thane.

...Respondents

By Advocates Shri V.G.Rege  
for Respondents No. 1 & 2  
and Shri Suresh Kumar for  
Respondent No. 3.

..2/-

*A.G.M.*

O R D E R

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act, 1985 for the declaration that order dated 29.5.1997 is null and void being against the Promotion Rules including the 40 Point Roster, with a direction to the respondents to fill the said vacancy as per the 40 Point Roster and consider the claim of applicant's promotion accordingly.

2. The applicant is a S.T. candidate with date of enrolment in December, 1978 while Respondent No. 3 is a S.C. candidate with date of enrolment in 1990. Both were appointed as Radio Technicians and are working under Respondents No. 1 & 2. The promotion to the post of Technical Assistant is from Radio Technicians and governed by the 40 Point Roster. In the year 1985 vide order dated 26.12.1985 Shri U.M.Shinde, S.C. candidate was promoted (vide Annexure-'A-3') to the post of Technical Assistant. The second and third roster point of general candidates were filled in 1988 by promotion of Shri J.N.Singh and V.G.Joshi. The 4th roster point is of S.T. The applicant being the senior most S.C. candidate is entitled to be promoted on the said post on the basis of 40 Point Roster. The applicant represented for the same vide his representation dated 12.4.1997 which was replied on 28.4.1997 and thereafter, Respondent No. 3 is promoted vide order dated 28.5.1997.

P.L.Jain -

3. The grievance of the applicant is that 40 Point Roster system is not followed by the respondents. Hence, this OA. for the above said relief.

4. The respondents have resisted the claim of the applicant alleging the fact that U.M.Shinde was issued the promotion order at the relevant time and the cadre was under control of Directorate (Communication), New Delhi. The Directorate of Preventive Operations, Customs & Central Excise, New Delhi vide E.O.No.77/85 dated 26.12.1985 issued the promotion order and he was posted to West Bengal. The said order was amended by D.P.O. vide F.No.18/2-Commns/86/7736 dated 3.6.1986 to the extent that Shri Shinde was posted to Bombay vide Shri Amar Singh, Technical Assistant promoted and posted to Ahmedabad. Therefore, the roster point meant for S.C. candidate was utilised by Shri Shinde. At the relevant time, the roster had been maintained by the DPO, New Delhi and not by the Commissionerate vide Exhibits '1' & '2'. The Govt. of India vide letter No. F.No.A11019/25/86 Ad.IV dated 31.3.1986 vested the Cadre Control of Gr.'C' Telecommunication staff to the respective Commissionerates vide Exhibit-'3'. Thereafter, two vacancies arose in the grade of Technical Assistant one on 30.6.1987 and another thereafter. The said two vacancies were filled by promoting on Adhoc basis Shri J.N.Singh and Shri V.G.Joshi vide order dated 28.10.1987 and 24.2.1988 respectively as per the roster point. After regular D.P.C. on 29.7.1988, Shri J.N.Singh

*J.N.Singh*

and V.G.Joshi were regularised and necessary entries were made in the Roster Point Register. Vacancies for SC was through out existed due to non availability of the suitable candidates and was carried forward and the said vacancy was filled by promoting Respondent No. 3 after due procedure prescribed. Hence, prayed for dismissal of the OA. along with cost.

5. After hearing the parties, we are of the considered opinion that Shri U.M.Shinde who was promoted in the year 1985 was adjusted against Ahemadabad vacancy, thereafter vide Exhibit-'3' dated 31.3.1986 the cadre control of Group 'C' Telecommunication staff remained to the respective Commissionerate. Hence, the allegation of the applicant that roster point 1 was being utilised cannot be sustained.

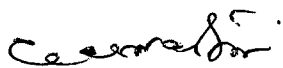
6. Shri J.N.Singh and V.G.Joshi who are the general candidates have been promoted as per the roster point in the year 1987 and 1988 and there is no controversy in respect of them.

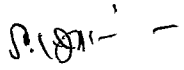
7. The vacancy which arose in respect of S.C. roster point was carried forward and as the said roster point was not operated, the promotion of respondent No. 3 in the said vacancy cannot be assailed by the applicant, as argued by the respondents. The respondents have placed the roster for perusal of the Bench. The learned counsel for the applicant argued that the roster was not prepared immediately after it is being

*S.L. Dik*

operated. Hence, such roster cannot be relied on. It is true that entries in the roster are not timely made but that can be a ground to reject the same but in such circumstance, it becomes necessary to scrutinise the matter closely and on perusal of the same and facts on record, we are of the considered view that the roster was operated in accordance with law.

8. In the result, we do not find any error in operating the roster. Hence, OA. is liable to be dismissed and is dismissed accordingly with no order as to costs.

  
(G.C. SRIVASTAVA)  
MEMBER (A)

  
(S.L. JAIN)  
MEMBER (J)

mrj.