

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:500/97

DATE OF DECISION: 8.11.2001

Shri.V.V. Shinde and another Applicant.

Shri S.P. Saxena Advocate for
Applicant.

Verses

Union of India and others Respondents.

Shri R.R. Shetty Advocate for
Respondents

CORAM

Hon'ble Shri S.L.Jain, Member(J)
Hon'ble Shri T.N.T.Nayar, Member(A)

(1) To be referred to the Reporter or not? Yes

(2) Whether it needs to be circulated to No
other Benches of the Tribunal?

(3) Library. Yes

S.L.Jain
(S.L.Jain)
Member(J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO: 500/97

THURSDAY the 8th day of NOVEMBER 2001

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

Hon'ble Shri T.N.Nayar, Member(A)

1. Vishwas Vithalrao Shinde
Residing at
Flat No.9, Ganapati Co-op.
Housing Society,
41, Gujrati Colony,
Kothrud, Pune.
2. Bansilal Nemchand Barnecha
Residing at
Flat No.5, Sunderbagh Colony
Union Park,
Dapodi, Pune.

...Applicants

By Advocate Shri S.P. Saxena.

V/s

1. The Union of India Through
The Secretary,
Ministry of Defence,
DHQ, PO, New Delhi.
2. The Director General of Ordnance
Services OS (8-C) (I)
Master General of Ordnance Branch,
Army Headquarters, DHQ PO,
New Delhi.

...Respondents

By Advocate Shri R.R. Shetty.

ORDER (ORAL)

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

This is an application under Section 19 of the
Administrative Tribunals Act 1985 for the direction to the
respondents to extend the benefit of judgement of the CAT,
Allahabad in OA 1232/91 to the applicants who was similarly

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placed and to quash and set aside orders dated 4.2.1994 and 14.8.1995 issued by the respondents with a direction to the respondents to refix seniority of the applicants as UDC/ Sr. Store- Keeper, carrying the scale of pay of Rs. 130 - 300, to which they were promoted after redeployment in lower post, from the date of their initial appointment as C.S.M., to refix the pay of the applicants in the C.S.M. scale of pay and in appropriate scale thereafter with all consequential benefits.

2. Applicant No.1 Shri V.V. Shinde was initially appointed as Civilian School Master with effect from 28.2.1970 in the scale of Rs. 130 - 300. Applicant No.2 B.N. Barmecha also initially appointed as Civilian School Master with effect from 4.5.1963 in the pay scale of 110 - 180 and subsequently after graduation he was appointed as C.S.M. with effect from 4.5.1966 in the pay scale of Rs. 130 - 300. The applicants were rendered surplus (applicant No.1 with effect from 31.12.1973 and applicant No.2 with effect from 7.5.1966) and posted as Stores Keeper. Thereafter they were transferred from one place to another and also promoted as Senior Stores Keeper.

3. The applicants are claiming the seniority on the basis of judgement / order rendered in OA 1232/91 Hari Om Upadhyaya and others V/s Union of India and others decided by CAT Allahabad. The said order was subject of consideration before this Bench in OA No. 168/96 and 175/96 decided on 14.7.2000 and thereafter OA 141/96 was decided on 27.7.2000 following the view accepted in OA 168/96 and 175/96 and the Mumbai Bench has not agreed to the view taken by Allahabad Bench.

SJK

4. The learned counsel for the respondents relied on 1998 SCC (L & S) 1150 Union of India and others V/s K. Savitri and others which laid down the proposition that the benefit of service rendered in previous organisation is not permissible under the provisions for fixation of seniority in the Organisation where surplus staff is redeployed. Hence such service cannot be considered as the service rendered in the grade of the post on which surplus staff is redeployed. Such service cannot therefore also be counted for determination of eligibility for further promotion. The learned counsel for the

5. The learned counsel for the applicant argued that it is a case where the applicants are redeployed in the same Ministry and in the same office / department. It is worth mentioning that surplus is always in a particular cadre in any department or office. As such we do not find any case to dissent or dis-agree with the decision of the Apex Court referred above.

6. The learned counsel for the respondents also relied on 2000 SCC (L&S) 845 State of Bihar and others V/s Kameshwar Prasad Singh and others, State of Bihar and others V/s Brij Bihari Prasad Singh and Indra Nand Mishra and others V/s State of Bihar and others and argued that the applicants have not arrayed the persons who are likely to be affected if the relief asked for is granted, as such the case suffers from the defect of non-joinder of necessary parties. We agree with the said submission in view of the Apex Court judgement.

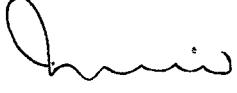
7. When a person is declared surplus and redeployed it is within his domain either to accept the appointment or face the

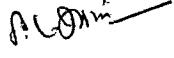
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consequence of being declared surplus. As the applicants has accepted redeployment, now after the lapse of more than 24 years and 31 years they cannot re-agitate the matter.

8. The judgement rendered by Allahabad Bench can be a case for the applicant to have the grievance but in view of the Apex Court judgement such grievance do not survive.

9. In the result we do not find any merit in the OA. It is liable to be dismissed and is dismissed accordingly with no order as to costs.


(T.N.T. Nayar)
Member(A)


(S.L.Jain)
Member(J)

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