

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

CAMP AT NAGPUR

ORIGINAL APPLICATION NO. 40/1997

THIS 17TH DAY OF JANUARY, 2002

CORAM: HON'BLE SHRI S.L. JAIN. .. MEMBER (J)
HON'BLE SMT. SHANTA SHASTRY. .. MEMBER (A)

Krishna
S/o Namdeorao Barahate,
aged about 50 years, ocoipation:
Office Superintendent Grade II,
in the Ordnance Factories Staff College,
Ambazari, Nagpur. .. Applicant

By Advocate Shri M.M. sudame.

Versus

1. Union of India,
through the Chairman,
Ordnance Factory Board,
10-A, Auck Land Road,
Calcutta-700 001.
2. Director, Ordnance Factory,
Staff College,
Ambazari, Nagpur-21.
3. General manager,
Ordnance Factory,
Ambazari, Nagpur. .. Respondents

By Advocate Shri R.G. Agarwal.

O R D E R (ORAL)

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

This is an application under Section 19 of the Administrative Tribunals Act, 1985 to quash and set aside the impugned order dated 30th November, 1995. by Annexure-IA and IB with a direction to respondent No.1 to sanction and allot one vacancy of Office

J.L. Shinde

superintendent Grade-I at Ordnance Factories Staff College, Nagpur and the applicant should be considered for promotion to the post of Office Superintendent Grade-I with effect from 13.12.95 from the date his juniors were promoted. Alternatively the applicant has sought a direction that he be transferred from the Establishment of Respondent No.2 to that of Respondent No.3 and should be considered for promotion to the post of Office Superintendent Grade-I along with his juniors as on 30.11.95 by holding a review DPC with a direction to respondents to grant retrospective promotion with effect from 30th November, 1995 with consequential benefits.

2. After the order dated 30.11.95 the applicant has served a legal notice on the respondents (Annexure Exhibit-10; pages 46 to 50 of the OA). If we treat this notice as representation, then the OA is within the time prescribed under Section 21 of the Administrative Tribunals Act, 1985 as the OA is filed on 15.10.96 and the notice Annexure-Exhibit 10 which is dated 20th April, 96. By the legal notice the grievance of the applicant is sought to be agitated. As such we treat it as representation and the OA is held to be within limitation.

3. The applicant is challenging the promotion of Shri Suryavanshi and V.S. Ghatate. Both the persons have not been arrayed as respondents in this OA. If the

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prayer of the applicants is considered, then their promotions are being affected they being necessary parties and in absence of the necessary parties, no effective reliefs or remedies can be provided.

4. OA has been filed on 15.12.1996. After a lapse of five years, the said Suryavanshi and V.S. ghatate cannot be added as party respondents. As such the OA deserves to be dismissed on account of non-joinder of parties. The OA is dismissed accordingly. No order as to costs.

Shanta

(SMT. SHANTA SHASTRY)
MEMBER (A)

P. (S.L.)

(S.L. JAIN)
MEMBER (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

R.P.No.2005/2002 in OA.NO.40/97

Dated this the 25th day of June 2002.

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

Hon'ble Smt.Shanta Shastry, Member (A)

Krishna Namdeorao Barahate

...Applicant

vs.

Union of India & Ors.

...Respondents

TRIBUNAL'S ORDER

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

The applicant in OA.NO.40/97 which was decided vide order dated 17.1.2002, the copy of which was received by him on 25.2.2002 has filed this Review Petition on 7.3.2002.

2. The grounds on which the Review Petition is filed are that the Tribunal failed to take into consideration the letter dated 20.1.2000 which is filed along with M.P.No.2112/2000, the reply of the respondents that the Ordnance Factories Staff College is in sympathy with the question of career progression of the applicant and the case has been taken up with Ordnance Factory Board, Calcutta to allow one post of O.S. Grade-I as one time dispensation, so that stagnation of the applicant can be avoided, and treating the OA. that it suffers with the defect of non joinder of necessary parties.

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3. After careful consideration of the Review Petition, we are of the considered opinion that letter dated 20.1.2000 is prospective in operation, sympathy of one can not be a ground to create a right in favour on one who does not have it and the principle of joinder of parties is well settled that a person is said to have been joined when he is impleaded.

4. There is no merit in the Review Petition as the case of the applicant is not covered under any of the criteria mentioned in Order 47 Rule 1 C.P.C., as there is no error apparent on the face of the record which is the ground agitated by the Review Petition.

5. In the result, Review Petition deserves to be dismissed and is dismissed accordingly.

Shanta

(SMT. SHANTA SHASTRY)

MEMBER (A)

S.L. Jain

(S.L. JAIN)

MEMBER (J)

mrj.

dt: 25.6.02.
Order/Judgement despatched
to Applicant/Respondent (s)
on 1.8.02

CP
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