

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 139/98

Date of Decision: 17.8.98

Shri Madhav Shankar Gaikwad Applicant.

Shri P.A. Prabhakaran, Advocate for  
Applicant.

Versus

The Director General  
Research & Development Respondent(s)  
Ministry of Defence and others.


Shri R.R. Shetty for Advocate for  
Shri R.K. Shetty, Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G. Vaidyanatha, Vice Chairman

Hon'ble Shri. D.S. Baweja, Member (A)

- (1) To be referred to the Reporter or not? *NO*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *NO*

  
(R.G. Vaidyanatha)  
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH 'GULESTAN' BUILDING NO:6  
PRESCOT ROAD, BOMBAY:1  
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Original Application No. 139/98

Monday the 17th day of August 1998

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman

Hon'ble Shri D.S. Baweja, Member(A)

Madhav Shankar Gaikwad  
resident of  
Shankar Nivas  
Kajupada, Pipe Lane,  
Kurla, Mumbai.

... Applicant.

By Advocate Shri P.A. Prabhakaran.

V/s.

The Director General  
Research & Development  
Ministry of Defence  
'E' Wing, Sena Bhavan,  
New Delhi.

The Director  
Naval Material Research  
Laboratory,  
Naval Dockyard,  
Tiger Gate  
Bellard Pier, Mumbai.

... Respondents.

By Advocate Shri R.R.Shetty for Shri R.K. Shetty.

O R D E R (ORAL)

{ Per Shri Justice R.G.Vaidyanatha, Vice Chairman }

This is an application filed by the applicant under Section 19 of the Administrative Tribunals Act. The respondents have filed the reply. We have heard both the sides regarding admission and interim relief.

2. The applicant came to be promoted as Stores Officer by order dated 25.3.97 and posted to Bangalore. The applicant made representation stating that he cannot join the duty at Bangalore due to personal difficulties. The respondents passed an order dated 12.8.97 cancelling the order

...2... *Ry*

of promotion and debarred the applicant for promotion for one year. Being aggrieved the applicant has approached this Tribunal to direct the respondents to consider the applicant for promotion keeping in view the number of family difficulties including his wife's illness. Therefore the order of cancellation of his promotion should be quashed and the respondents be directed to post the applicant as Stores Officer at Bombay. The applicant states that the post of Stores Officer at Bombay is vacant since 1993.

3. The respondents have filed reply opposing admission and they have taken a stand that the promotion was issued in the interest of administrative exigency and the applicant has not made out any case in the application for admission and interim relief.

4. At the time of argument the learned counsel for the applicant has prayed that the applicant be promoted considering the illness of his wife and family difficulties and the applicant being a Scheduled Caste candidate. The applicant further argued that he has been discriminated, since many other officers have been given posting of their choice. As far as the discrimination is concerned the respondents have explained in detail the position of other officers.

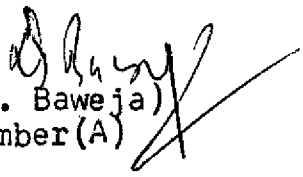
5. The applicant has stated that he is a patient of hypertension <sup>and pleader</sup> due to other family difficulties. In our view these are personal hardships. The personal hardships cannot be the ground for

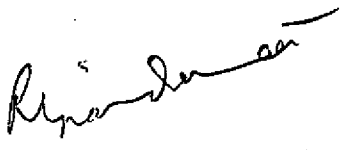
judicial review to be exercised by us. The Supreme Court has pointed out in number of recent decisions AIR 1993 SC 1236 Rejendra Roy V/s. Union of India and others and 1997 SCC L& S 643 Laxminarain Mehar V/s. Union of India and others. <sup>and</sup> ~~The Supreme Court~~ held that the personal difficulties is not a ground with which the Tribunal can interfere, but they are to be considered by appropriate authority sympathetically. The ground that the applicant is a Schedule Caste <sup>and cannot be transferred</sup> It is a guide line and it is for the administration to take a decision. In view of the law declared we are not inclined to quash the impugned order passed by the department.

6. The respondents have pointed out some administrative difficulties in considering the applicant for the post at Bombay since the post is a sensitive post and the applicant is working for a number of years at Bombay, he cannot be considered for that post. Anyhow we leave it to the department to consider the grievance of the applicant sympathetically and then take appropriate decision regarding the posting of the applicant on promotion at any suitable place. They may also consider to post the applicant anywhere near Bombay or round about Bombay, if it is possible.

7. In the result the application is disposed of with an observation that the respondents should consider the case of the applicant sympathetically and take a proper decision according to law. We also give liberty to the applicant to make fresh representation explaining the personal difficulties

and family difficulties so that the respondents can apply their mind and take a decision. The applicant is at liberty to file the representation within 10 days from today. The interim relief granted earlier in this case shall continue till the date of order of the competent authority on the applicant's representation. No costs.

  
(D.S. Baweja)  
Member(A)

  
(R.G. Vaidyanatha)  
Vice Chairman

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