

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 687/98

Date of Decision: 8/2/99

G.N.Pawar & 40rs.

Petitioner/s

Shri S.P.Saxena

Advocate for the
Petitioner/s.

v/s.

Union of India & 10 Ors.

Respondent/s

Shri R.K.Shetty/D.V.Gangal

Advocate for the
Respondent/s

CORAM:

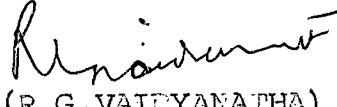
Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

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

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

(2) Whether it needs to be circulated to other Benches of the Tribunal?

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(R.G.VAIDYANATHA)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GULESTAN BLDG. NO. 6, 4TH FLR, PRESCOT RD, FORT,
MUMBAI - 400 001.

ORIGINAL APPLICATION NO:687/98.

DATED THE 8TH DAY OF FEBRUARY, 1999.

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

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

1. G.N.Pawar.
2. A.P.Chavan
3. P.B.Nemade
4. John Skarihya
5. A.K.Palav
Draughtsman Grade-II,
C.Q.A.E., Aundh,
Pune-411 027.

... Applicants.

By Advocate Shri S.P.Saxena

V/s.

1. Union of India
Through The Secretary,
Ministry of Defence,
New Delhi-110 011.
2. The Director General,
Directorate of Quality Assurance,
Ministry of Defence,
New Delhi-110 011.
3. The Director,
Directorate of Quality Assurance,
Ministry of Defence,
New Delhi-110 011.
4. The Controller,
Controllerate of Quality Assurance (EE),
Aundh Camp, Pune-411 027.
5. Shri P.T.Chaubal,
Joint Controller,
Controllerate of Quality Assurance (EE),
Aundh, Pune-411 027.
6. Shri B.A.Koli,
Administrative Officer,
C.Q.A. (E.E.), Aundh,
Pune.411 027.
7. Shri A.D.Khole,
Draughtsman Grade-III,
C.Q.A.E., Aundh,
Pune-411 027.
8. Shri K.G.Shaikh,
Draughtsman Grade-III,
C.Q.A.E., Aundh,
Pune-411 027.

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9. Mrs. S.C.Laghate,
Draughtsman Grade-III,
C.Q.A.E., Aundh,
Pune-411 027.

10. S.G.Phatak,
Draughtsman Grade-III,
C.Q.A.E., Aundh,
Pune-411 027.

11. D.P.Mali,
Draughtsman Grade-III,
C.Q.A.E.,
Aundh, Pune-411 027.

... Respondents.

By Advocate Shri R.K.Shetty. (R-1 to 6)

By Advocate Shri D.V.Gangal. (R-7 to 11)

I O R D E R

¶ Per Shri R.G.Vaidyanatha, Vice Chairman ¶

This is an application filed by the applicants for the relief of quashing the appointment of respondent Nos. 7 to 11, Draughtsman Grade-III and for other consequential benefits. Both the official and private respondents have filed reply opposing the application.

We have heard the learned counsels appearing on both sides regarding admission.

2. The applicants are challenging the validity of appointment of respondent Nos. 7 to 11 on the ground that they do not have the minimum required experience of one year as per recruitment rules and therefore their very appointment is illegal and dehors the rules.

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Respondents in their reply had asserted that they had the required experience and even produced the necessary certificates.

According to applicants, the private respondents have produced bogus experience certificate. However, their allegation is that the Joint Director had been asked to look into the matter and he has given a report.

3. After hearing both the sides, we do not find that any case is made out for admitting the application. The applicants are in no way aggrieved by appointment of respondent Nos. 7 to 11. Admittedly respondent Nos. 7 to 11

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are juniors to applicants. Therefore, the claim of applicants challenging the appointment of respondent Nos. 7 to 11 is in the nature of Public interest litigation which cannot be entertained by this Tribunal.

Then, it is further seen that respondent Nos. 7 to 11 have been appointed somewhere between 1982 and 1984. The present application is filed in 1998. That means now the applicants want to reopen the matter to make a review of the appointments made in 1982 and 1984 as illegal and dehors the rules. On the face of it, the claim is stale and application suffers from delay and latches. Further, the appointments of the private respondents 7 to 11 is much prior to the constitution of this Tribunal and therefore the claim is barred by limitation.

4. Even granting for a moment that the appointments of private respondents 7 to 11 was obtained on bogus certificates, it is a matter to be proved whether the certificates are genuine certificates or bogus certificates and to be enquired into and has to be decided by Competent Authority. This Tribunal in a petition like this cannot go into question of such nature. Nodoubt, obtaining appointments on the basis of bogus certificates is a misconduct. In such a case, the Appointing Authority shall will have to hold a Disciplinary Enquiry by issuing charge sheet for alleged misconduct of obtaining job on the basis of bogus certificates. Then the officials will have to put forward their defence and then after enquiry is over, the Disciplinary Authority will have come to the conclusion whether the job is obtained on the basis of bogus certificate and then only the officials can be removed from service. That exercise cannot be done by this Tribunal at the instance of applicants who are in no way aggrieved or effected by appointment of respondent Nos. 7 to 11. Hence, even on this ground, we find that

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there is no merit in the application.

5. If there are malafides in the appointment of respondent Nos. 7 to 11, as alleged in the application, then the remedy is left to administration to take action or the applicants or administration can lodge a police complaint, or whatever action that is permissible in law. Therefore, we find that the application need not be admitted.

6. In the result, the application is rejected at the admission stage. No costs.

In view of this order, MP-694/98 does not survive and is finally disposed of.


(D.S. BAWEJA)
MEMBER(A)


(R.G. VAIDYANATHA)
VICE CHAIRMAN

abp.