

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 375 of 1998.

Dated this Wednesday, the 29th day of May, 2002.

Harrison Wamanrao Bhonsle, Applicant.

Shri Suresh Kumar, Advocate for the  
Applicant.

VERSUS

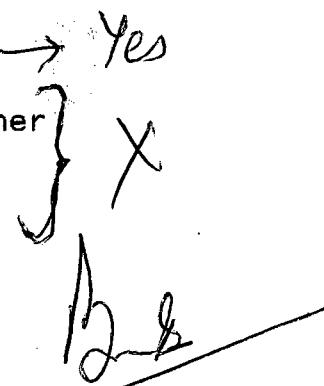
Union of India & Others, Respondents.

Shri R. K. Shetty, Advocate for the  
Respondents.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

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

- (i) To be referred to the Reporter or not ? → Yes
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ? } X
- (iii) Library.

  
(B. N. BAHADUR)  
MEMBER (A).

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MUMBAI BENCH

Dated this the 29th day of May, 2002

Coram: Hon'ble Mr.B.N.Bahadur - Member (A)  
Hon'ble Mr.S.L.Jain - Member (J)

O.A.375 OF 1998

Harrison Wamanrao Bhonsle,  
512, Army Base Workshop,  
Kirkee, Pune.  
(By Advocate Shri Suresh Kumar) - Applicant

Versus

1. Union of India  
through the Director General  
of EME (EME CIV -3)  
MGO's Branch, Army Headquarters,  
DHO PO New Delhi.
2. Officer-in-charge (EME Records)  
(PO) Secunderabad,  
Andhra Pradesh.
3. Commandant,  
512, Army Base Workshop,  
Kirkee, Pune.  
(By Advocate Shri R.K.Shetty) - Respondents

ORAL ORDER

By Hon'ble Mr.B.N.Bahadur - Member (A)-

The applicant in this case comes up to this Tribunal seeking the relief for a declaration that action of respondents in cancelling the panel vide order dated 1.3.1997 (Annexure A-17) is illegal. A declaration is also sought to the effect that the applicant is entitled to promotion from a day one year after date of publication of panel on 8.12.1994 or alternatively w.e.f. 22.8.1997. Consequential reliefs are also sought.

2. We have gone through the papers in the case including the OA, the reply-statement and other documents and have heard the learned counsel on both sides namely Shri Suresh Kumar for the applicant and Shri R.K.Shetty for the respondents.



....2/-

3. The facts of the case as directly relevant are that the applicant was promoted to the post of OS - II by respondents, first vide order dated 8.12.1994 (page 21). He was posted from Kirkee (where he was working) at Deolali. He represented immediately requesting for a Kirkee posting on this promotion, which request was rejected and he was deemed to have refused promotion. Hence became ineligible for one year as per rule. This process of offer of promotion and refusal on personal grounds came to be repeated in 1995 and on 19.10.1996. The applicant had constantly been requesting for Kirkee as against his posting outside of this station on personal grounds and rejecting promotions at outside station/s.

4. While arguing the case, learned counsel Shri Suresh Kumar drew our attention to the contentions taken at page 5 of the OA i.e. at Para 4.9. It was reiterated that as per the instructions of the respondents an offer had been made to all applicants to make request with reference to the desired station of posting. The learned counsel argued that this circular was made available to the respondents very late, in September, 1996 and that he had made representation immediately for absorption in C-2. This in fact was the main plank of his argument, as being an infirmity on the part of Respondents.

5. The Respondents' learned counsel depended upon his written statement of reply, and stated that the applicant had no right /entitlement to a particular station of posting and that



even refusal on genuine grounds did not mean that respondents were obliged to post him at the station of his choice in subsequent year. Some details of posting have been provided at internal page 4 of the written reply (Page 53) and a point sought to be made that only one person was provided a posting (1996 posting) at Kirkee namely Shri Waghmare and that this person was senior to the applicant. Further, all contentions and claims of the applicant are resisted in the written reply of Respondents.

6. A consideration of the facts of the case and the arguments made by learned counsel show that applicant had admittedly been refusing his posting outside right from 1994. Even if we ignore the point of limitation with reference to the posting upto 1995 - 96, it is indeed a settled position that the refusal of promotion does not imply that when the applicant is reconsidered after a year (i.e. after a period of his debarment ends), he acquires a right to a posting place of his choice. The learned counsel for the applicant was also at pains to state that there was a vacancy at Kirkee. Even if this was true, (as it is seen that there was only one vacancy in 1996 -97), this does not create a right either for the applicant to a posting at that place. We also note the fact brought out in written statement of the respondents that only one person, who was senior to the applicant, was provided a posting at Kirkee.

7. We are also informed during arguments as an admitted fact that the applicant in this OA was finally provided promotion on 9.10.1998 to Ahmednagar as OS - II where he joined and subsequently retired on superannuation on 31.3.2001. Be that as



....4/-

it may, since no right is created, as discussed above, we are not in a position to provide the relief as sought by the applicant. The OA, therefore, fails and is hereby dismissed.

8. There will be no order as to costs.

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

B. N. Bahadur  
(B.N.Bahadur)  
Member (A)

mb

Order, etc      resp...  
to App...      ...ndent (o)

on 24/6/62

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