

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 471 of 1998.

Dated this Friday, the 31st day of May, 2002.

Shri Fatehsinh N. Chauhan, Applicant.

Shri I. J. Naik, Advocate for the
Applicant.

VERSUS

Union of India & Others, Respondents.

Shri V.S. Masurkar, Advocate for
Respondent Nos. 1 to 4.

Shri A. I. Bhatkar, Advocate for
Respondent No. 5.

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 ? ☒ *Yes*
- (iii) Library. ☒ *Yes*

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

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Shri Fatehsinh N. Chauhan,
Assistant Sub-Inspector,
Police Station,
Via : VAPI,
W. Railway.

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Applicant.

(By Advocate Shri I. J. Naik)

VERSUS

1. The Assistant I.G.P.,
U.T. of Dadra & Nagar Haveli,
Office : at SILVASSA,
Pin Code - 396 230.
2. The Chairman of D.P.C.
cum Collector,
U.T. of Dadra & Nagar Haveli,
P.O. Silvassa,
Pin Code : 396 230.
3. The Administrator of U.T. of
Dadra & Nagar Haveli,
Secretariat,
P.O. Moti Daman,
Pin : 396 210.
4. Union of India through
The Secretary,
Ministry of Home Affairs,
Central Secretariat,
North Block, New Delhi.
5. Shri M. R. Rohit,
C/o. Police Station,
P.O. Silvassa,
Pin Code - 396 230.

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Respondents..

(By Advocate - Shri V. S. Masurkar
for Respondent Nos. 1 to 4.

Shri A. I. Bhatkar for Respondent No. 5)

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B. N.

O R D E R (ORAL)

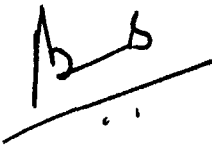
PER : Shri B. N. Bahadur, Member (A).

We have heard the Learned Counsel, Shri I. J. Naik for the Applicant, Shri V.S. Masurkar for the official Respondents No. 1 to 4 and Shri A. I. Bhatkar for Private Respondent No. 5. We have also carefully gone through the papers in the case. At the outset, we find six prayers made in para no. 8. One set of them, namely - prayer D, E and F relates of Shri M. R. Rohit.

2. At the outset, the Learned Counsel, Shri I. J. Naik, stated that he is restricting his argument to the main grievance which he has, in that, direct recruitment of five Sub-Inspectors have been made after 1993 in the Respondents' Organisation. His main grievance is that, in so doing, the Respondents have flouted the Recruitment Rules (copy at page 20) which requires that 50% of recruitment shall be by Direct Recruitment modality and 50% by promotion.

3. In regard to this specific point we find no pleadings. Certain facts are sought to be given to us across the bar by Learned Counsel on both sides but these are not pleaded and there is substance in the contention of Learned Counsel for Respondents that full facts could be provided in respect of those points which are pleaded in the O.A. Since these points are not pleaded, these will have to be done by the applicant separately. Liberty shall need to be provided and we shall do so. However, in regard to the other grievances about which reliefs are sought, namely - in regard to the seniority of Respondent No. 5, we find no substance. In the first place, as specifically pointed out in

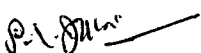
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the Written Statement of Respondents, Shri M. R. Rohit is not a directly recruited Sub Inspector. Shri Naik did try to raise the fact that originally Mr. Rohit was junior to the Applicant. He sought support from the seniority list apprehended (Annexure A-4). However, this position has been explained by the Respondents and by the Learned Counsel for Respondent No. 5 stating that Mr. Rohit came to be promoted earlier, i.e. with effect from 21.03.1985 as Sub-Inspector in view of the benefit of reservation made available to him. This point has also been explained in the Written Statement of official Respondents. This cannot be agitated now. In fact, as rightly pointed out by the Learned Counsel for Respondents, the matter has become final through orders made by this Tribunal in O.A. No. 115/2001 on 18.07.2001 and in O.A. No. 853/98 decided on 19.07.1999. Be that as it may, we find that there is no case against Respondent No. 5 and hence relief sought against him cannot be provided. This O.A. is, therefore, disposed of with specific liberty to the Applicant as follows :

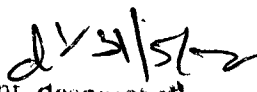
(i) The Applicant is provided liberty to file another O.A. latest within two months from today only in regard to allegation and grievances regarding non observation of Recruitment Rules in respect of 50% quota for Direct Recruits/promotees. Also, it will be restricted to appointments by Direct Recruitment after 1993.

(ii) No order as to costs.


(S. L. JAIN)
MEMBER (J).


(B.N. BAHADUR)
MEMBER (A)

OS*


Order/Judgement despatched
to Applicant/Respondent(s)
on 26/6/20

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