

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 804/98

Date of Decision : 5.6.2002

M.V.Mhaskar

Applicant

Ms.Ranjana Todankar for
Shri S.S.Pakale

Advocate for the
Applicant.

VERSUS

Union of India & Ors.

Respondents

Shri V.S.Masurkar

Advocate for the
Respondents

CORAM :

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

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

- (i) To be referred to the reporter or not ? Yes BB
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ? Yes
- (iii) Library Yes

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

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.804/98

Wednesday this the 5th day of June,2002.

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

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

Mukund Vinayak Mhaskar,
R/at 10, Tripurari Society,
Jagtap Mala, Gajanan Nagar,
Nashik Road.

...Applicant

By Advocate Ms.Ranjana Todankar
for Shri S.S.Pakale

vs.

1. General Manager,
India Security Press,
Nashik Road.
2. Deputy General Manager,
India Security Press,
Nashik Road.
3. The Administrative Officer,
India Security Press,
Nashik Road.

...Respondents

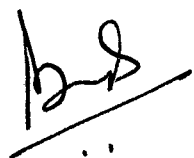
By Advocate Shri V.S.Masurkar

O R D E R (ORAL)

{Per : Shri B.N.Bahadur, Member (A)}

The Applicant in this case has filed this OA. seeking the
reliefs as follows :-

"(a) This Hon'ble Court be pleased to issue a
Writ of Certiorary or in the nature of Certiorary
and call for the papers and proceeding from the
custody of the Respondents and after examining
the validity & propriety of the order dated
13.4.1998 and quash and set aside the same.



..2/-

(b) This Hon'ble Court under Article 226 of the Constitution of India be pleased to issue a Writ of Mandamus or writ in the nature of Mandamus or order of direction directing the respondents to promote the applicant to the post of Assistant Store Keeper and continuity of service as if he continue to work in the same post.

(c) Pending the hearing and final disposal of this Application this Hon'ble Court be pleased to stay the implementation of the order dated 13.4.1998 and the Applicant be permitted to work as Assistant Store Keeper and he be paid the emoluments and monthly wages being paid to the Assistant Store Keeper.

(d) Ad-interim relief in terms of prayer clause (b) & (c).

(e) for the cost of the Application.

(f) for such further and other reliefs as the nature and circumstance of the case may require.

2. The relevant facts brought out by the applicant are in brief as follows :-

The Applicant states that he is working as Upper Division Clerk, at the time of making this application. Before that he was posted as Lower Division Clerk. He describes his career and outlines developments in 1995. However, we come straight to the point on which the applicant is aggrieved ^{L.e} in 1998. Before that, ^{hds} it may be recalled that the applicant states that he was promoted to the post of Assistant Store Keeper vide order dated 6.11.1995 and joined therein. Later his appointment was continued for specific periods; relevant documents are filed. Subsequently also an extension in appointment was granted up to 16.6.1998.

hds

The Applicant states that he has been doing his work sincerely and diligently, with no adverse remarks. In fact, he states that he is most sincere. The applicant is aggrieved with the order dated 13.4.1998, by which he is reverted to the Upper Division Clerk (Annexure-'G' page 16). It is with such grievances that the applicant is before us seeking the reliefs as quoted above. In short, therefore, it is to be ^{assessed} ~~seen~~ whether this reversion is arbitrary, illegal etc.

3. The Respondents have filed a Written Statement on 8.1.1999 (page 19). It is titled as a "Statement to oppose admission and interim relief", but the Learned Counsel Shri Masurkar clarifies today that this will be deemed to be final statement. The claims of the applicant are resisted by the respondents, and the copies of Recruitment Rules relating to Assistant Store Keeper are shown. It is materially stated that this post of Store Keeper is to be filled, ^{by two methods} ~~namely~~, by promotion from UDCs to the extent of 75% and secondly from the post of Head Store Keeper in the Industrial cadre for 25% of posts. The post is a selection post and has to be filled in as such, and not available by right to anybody. The main stand taken in Written Statement and during arguments is that the promotion of the applicant was made purely on adhoc basis, in exigency of the work requirements of Respondents, and in fact was made against the post which was exclusively reserved to be filled in by quota of workmen category. The provision of such adhoc arrangement clearly points out that incumbent has no right to continue in the

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post. Shri Masurkar argued that 25% of the posts of Assistant Store Keeper were to be filled from the cadre of workmen, and since the applicant was occupying the post meant for second quota and since the promotion was purely adhoc, the action of Respondents for reversion was not at all illegal or wrong. The applicant had been promoted on adhoc basis initially for six months and extended thereafter.

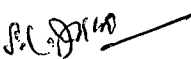
4. We have heard Learned Counsel on both sides, namely, Ms. Ranjana Todankar for Shri S.S. Pakale for Applicant and Shri V.S. Masurkar for Respondents. Counsel for Applicant argued her case on the basis of grounds and averments taken in the OA. It is pointed out by way of information by Respondents' Counsel that applicant was subsequently promoted in the another channel to the post of Assistant Inspector of Control in India Security Press in the higher pay scale of Rs.4,000/- from 14.10.1998 and hence it was argued by Shri Masurkar that having accepted this post further deprived him of any right to agitate this matter. The position is further elucidated in Para 12 of the Written Statement which was relied upon by the Learned Counsel for Respondents.


5. The first thing that we have to see is whether in the action there is any violation of the Recruitment Rules. Clearly the Recruitment Rules provides for promotional opportunities to the post of Assistant Store Keeper. The applicant belong to the UDC cadre. It is also seen that he was promoted on adhoc basis for six months extended from time to time. A categorical statement has been made by the Respondents that this promotion was provided only to meet the exigencies of work and applicant was occupying the post meant for the quota of Industrial workmen.

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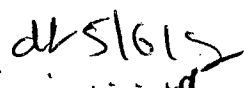
In the face of such a clear assertion of fact and the facts evident from record, and the fact that no rejoinder has been filed or facts denied, this statement of facts will have to be taken as admissible.

6. Now, once this fact is accepted, the settled law is the person who is posted on adhoc basis will not get any rights for such promotion. When the Respondents have gone in for regular selection process as per Recruitment Rules, the reversion has come about. We also note that applicant has been given promotion through another channel. Under the circumstances, the applicant does not establish any right for the claims that he seeks. The OA., therefore, deserves to be dismissed and is accordingly dismissed. There will be no orders as to costs.


(S.L.JAIN)
MEMBER (J)


(B.N.BAHADUR)
MEMBER (A)

mrj.


to Applicant Respondent (s)
on 31-12-19

