

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 11498 of 2014.

Mr. M. Feroz Khan	..	..Petitioner.
Vs		
Mr. Premchand & Ors	..	..Respondents.

Mr. R.R.Sharma for the Petitioner.
Ms. Priyanka Mehndiratta for Respondent No.1.
Mrs. Neeta Masurkar a/with Mr. V.S.Masurkar and Mr.
N.R. Prajapati for Respondent No.2.
Mr. V. Narayanan for Respondent No.3.

CORAM : R.M. BORDE & A.S.GADKARI, JJ.
DATE : 24th February, 2017.

P.C.

1) The petitioner is objecting to the decision rendered by the Central Administrative Tribunal (for short, "Tribunal") in Original Application No. 330 of 2014 decided on 26th September, 2014. The petitioner herein was impleaded as respondent No.3 in the Original Application presented by one Shri Premchand. The selection of respondent no.3 to the post of Director General, Fishery Survey of India (for short, DGFSI) is objected by the original applicant. While dealing with the challenge raised in the petition, the Tribunal has observed in

paragraph No. 21 of the Judgment which is quoted, as below :

21. "During the course of the arguments and from the perusal of documents we have also found that a few external factors have come into play after the selection of respondent No.3 Institution like the National Commission for Minorities and the National Commission for Scheduled Castes have exerted pressure for issue of appointment letter to the respondent No.3 and for selection of the applicant respectively. In view of the fact that issues have been raised by the respondent No.1 on the eligibility and suitability of Respondent No.3 after the selection by the UPSC and after pressure exerted by the National Commission of Minorities and National Commission for Scheduled Castes, doubts arise where the decision to issue the appointment letter to Respondent No.3 has been hastened due to such factors. There is also mention about two VIP references in the matter. While we do not want to go into the details of external factors influencing appointment of Respondent No.3, we find from the records that the entire selection process has been severely vitiated by many undesirable factors including representation by various Scientists and others about the relative merits or otherwise of the

applicant and the Respondent No.3. Although, all this is extraneous to the actual selection to the post of DGFSI, we deem it necessary to quash the appointment order issued by the Ministry on the ground that there is infirmity and procedural irregularity in the selection to the post of DGFSI. We feel that it will be in the interest of justice, fair play and procedural integrity that the Respondent No.1 should re-advertise the post, assess the qualification and eligibility of all the applicants through expert advice and then approach the UPSC for final selection to the post of DGFSI.”

2) Considering the sequence of events narrated in paragraph no. 21 of the judgment, in our view, the Tribunal was justified in directing quashing and setting aside the appointment order dated 6th June, 2014 issued to the petitioner (original respondent no.3 M. Feroze Khan) and directing respondent no.1-Union of India to recommence the selection process in an objective scientific, and transparent manner, strictly adhering to the provisions of Recruitment Rules.

3) It is pointed out by the learned Counsel appearing for Respondent No.1 that during the continuance of the instant

petition, liberty was granted to the Union of India to continue the process of selection and accordingly respondent Nos. 2 and 3 (the Union of India and the UPSC) undertook the process and respondent no.1 came to be selected for the post. However, before issuance of the order of appointment, respondent no.1 is retired on attaining age of superannuation. Since the selection process in pursuance of the directions issued by the Tribunal, was commenced and has come to an end, the instant petition does not deserve consideration.

4) It is made clear that as and when respondent Nos. 2 and 3 decide to undertake fresh selection process, if the petitioner demonstrates his eligibility on the basis of educational qualification prescribed under the relevant Recruitment Rules as well as the criteria relating to required experience as laid down under the Rules, it would be open for the petitioner to participate in the process subject to the parameters laid down under the relevant Rules. No interference under Article 226 of the Constitution of India is called for in the instant petition.

5) It is informed by the Counsel appearing for Respondent No.1-Premchand that after retirement of respondent No.1 on attaining age of superannuation, Respondent No.2 Union of India has yet not released his pensionary benefits. It shall be obligatory on the part of respondent No. 2 to release the pensionary benefits legally accruable to respondent No.1-Premchand and appropriate steps shall be taken in that regard. In the result, the petition stands rejected. No order as to costs.

(A.S. GADKARI,J)

(R.M. BORDE, J.)