

Administrator of Dadra and Nagar Haveli, Silvassa

Vs

H. P.Vora

Civil Appeal No. 3797 of 1992

(L. M. Sharma, S. Mohan, N. Venkatachala JJ)

15.09.1992

JUDGEMENT

N.VENKATACHALA, J.

1. By granting special leave to appeal against the judgment of the Bombay Bench of the Central Administrative Tribunal (CAT), we are disposing of the appeal itself after hearing learned counsel on both sides.
2. Shri H. P. Vora, the Respondent, was promoted from the post of Junior Engineer to the post of Deputy Engineer on 'Ad hoc' basis in the Public Works Department of the Administration of Dadra and Nagar Haveli on October 1, 1972. His case for crossing the efficiency bar in the time scale of pay though became due on October 1, 1978 and on subsequent dates, it was not considered favourably by the concerned having regard to adverse remarks relating to relevant periods found in his Confidential Reports. This situation made him seek redressal in the matter by filing an application before the CAT on July 2, 1987. By its judgment, CAT having found that the authorities had committed 'irregularity after irregularity' in considering the Respondent's case for crossing efficiency bar, allowed his application directing the Administration of Dadra and Nagar Haveli (the appellant here) to pass an order within four weeks from the date of communication of the order to clear efficiency bars of the applicant (Respondent here) and to release the two withheld increments and also to pay all other monetary benefits arising therefrom within two months. It is this judgment which is now appealed against by the Administration of Dadra and Nagar Haveli.
3. The learned counsel appearing for the appellant took serious objection for the directions given by the Tribunal in its judgment calling upon the appellant to clear the efficiency bars respecting the Respondent (applicant before it) and to grant increments to him and also to pay to him monetary benefits arising therefrom. Directions issued to the appellant by the CAT in its judgment, by their very nature, he submitted, made it apparent that the Tribunal had assumed the role of the Authorities empowered to decide the matters under the Fundamental Rules. The submission of learned counsel in our view, merits acceptance, since the complained of directions relate to matters on which Authorities specified under the Fundamental Rules have to decide, regard being given to the requirement of those Rules and not to matters which lay within the decision making domain of the Tribunal.
4. Hence, we allow this appeal and set aside the judgment under appeal. However, in the facts and circumstances of the case, we direct the Authorities empowered under the fundamental Rules to

consider Respondent's case for crossing efficiency bar in accordance with those Rules and make appropriate orders within a period of six months from today.

Appeal allowed.

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