



Bombay High Court Holds That Employees Cannot Subsequently Challenge Their Promotion After Accepting The Same Without Demur



CIVIL

Bombay High Court Holds That Employees Cannot Subsequently Challenge Their Promotion After Accepting The Same Without Demur

AUTHOR Brian Noronha, Amisha Upadhyay

PUBLISHED 3 July 2024

In a recent judgment, passed in the matter of **Shri Shripad Dwarkanath Gupte and Ors. v. Union of India**^[1] the Hon'ble Bombay High Court (“**HC**”) elucidated that employees who have accepted promotions based on grades, without any objections are barred from subsequently challenging the same.

This dispute is related to the employees challenging a common judgment and order passed by the Hon'ble Central Administrative Tribunal, Mumbai (Tribunal) (“**CAT**”) wherein the Original Application Nos. 93 of 2017 and 497 of 2017 were dismissed by the CAT vide order dated 21st December 2022.

The Petitioners, in this particular case, were employed as Artisan Staff in various grades i.e. Highly Skilled Grade – II (HSK-II), High Skilled Grade – I (HSK-I), and Chargeman and Foreman in the Technical Supervisory Staff of the Indian Navy employed by the Admiral Superintendent, Naval Dockyard (“**Respondent No.2**”). An Office Memorandum in 2010 (“**said OM**”) was notified by the Ministry of Defence (“**MoD**”) which introduced a new four-grade structure i.e. (i) Skilled, (ii) HSK-II, (iii) HSK-I, and (iv) Master Craftsman as to a three – grade structure previously established. The MoD thereafter, implemented the said OM and issued a revised ratio of different grades in Industrial Trades vide Operative Instruction dated 25th June 2012.

The contention of the Petitioners viz the said OM was that few of the Petitioners due to the said OM and the Operative Instructions were directly promoted to Chargeman, instead of going through the expected promotion of Master Craftsman, and as a consequence, they were denied a pay increment which they would have received otherwise.

In the instant case, however, the HC upheld the impugned decision of the CAT and opined that out of 25 Petitioners, 13 had been promoted based on grade-wise seniority to Chargeman and Foreman without objecting, reflects their acceptance towards the promotion practices adopted, having consented to the same through their conduct, the doctrine of estoppel would be pertinent. Further, the HC interpreted the said OMs and conceded with the ruling of the CAT that a delay of six years cannot be condoned as it would prejudice and disrupt the seniority which is already in place.

In the humble opinion of the authors, the HC ought to have taken into consideration the practical difficulties being faced by the employees, who are more often than not pressurized into accepting promotions without being fully informed of the consequences of such acceptance.

[1] Writ Petition No. 2763 of 2023.