

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
 AHMEDABAD BENCH  
 NO. EX-XXXXXX

O.A. No. 164 OF 1986  
 XXXXXXXX

DATE OF DECISION 11/10/1988

Shri Himatlal Manishanker Pandya Petitioner  
 and Another

Mr. B.B. Gogia Advocate for the Petitioner(s)

Versus

Union of India Respondent

Mr. B.R. Kyada Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. D.S. Misra : Administrative Member

The Hon'ble Mr. P.M. Joshi : Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No

1. Himatlal Manishanker Pandya,  
Rajkot.
2. Mavji Macchhu Parmar,  
Rajkot.

.....Applicants

**Versus**

1. The Union of India,  
Western Railway,  
Bombay - 400020.
2. The Divisional Railway Manager,  
Kothi Compound,  
Rajkot.

.....Respondents

**O R A L - O R D E R**

11/10/1988

Per : Hon'ble Mr. P.M. Joshi : Judicial Member

The petitioners namely Shri Himatlal Manishanker Pandya and Shri Mavji Macchhu Parmar, filed this application under Section 19 of the Administrative Tribunals Act, 1985, for redressal of his grievance against his reversion. The petitioners have challenged the validity/order passed by the D.C.S. (E), Rajkot. The impugned order dated 08-1-1986 reads as under :-

"Phone Message

Date : 08-1-1986  
16-45 Hrs.

From : - D C S ( E ) RJT  
To : - S S RJT  
No. : EC/839/T C Date 8-1-1986

With immediate effect 2/Shri H.M. Pandya and M.M. Parmar ad hoc T.C. at RJT are reverted to their substantive post.

Direct to this office for further posting.

Sd/-  
D C S, RJT."

.....3/-

2. According to the case set up by the petitioners, they were promoted to the post of Ticket Collector by virtue of the order dated 16th June 1980. It is stated that the petitioner No.1, is a Scheduled Caste candidate. It is alledged that the impugned order is null and void as it is contrary to the terms of the order of promotion and the principle of 'last come, first go' has not been observed as many juniors are retained. He has therefore, prayed that the impugned order be quashed and set aside and the respondents be directed to continue him on the post of Ticket Collector as long as their juniors are retained, and R.C.S. candidates are made available. The petitioners also prayed for interim relief and in terms of para 8 ad-interim relief was granted by this Tribunal and the implementation of the impugned order was stayed after hearing the objections filed by the Respondents Railway Administration ad-interim relief was confirmed.

3. The respondents railway administration in their counter contended that the petitioners were promoted to the post of Ticket Collector purely on ad-hoc basis and once they were reverted they can not be allowed to make any grievance against it, and especially when the dispute raised by him in earlier litigation, the courts, including the High Court have held the the petitioners are liable to be reverted when they are promoted on ad hoc basis and thus the petitioners are not entitled to the reliefs as prayed for.

4. When the matter came up for hearing we have heard Mr. B.B. Gogia and Mr. B.R. Kyada the learned counsel for the petitioners and the respondents respectively. We have also perused and considered the materials placed on record.

5. The main grievance of the petitioners is that they are promoted to the post of Ticket Collector since the year 1980 and they have continued on the same post as Ticket Collector for the last 8 years and the impugned order of reversion does not assign any reason for their reversion. During the course of his arguments, it was submitted by Mr. Gogia, relying on the decision rendered by this Tribunal in T.A./571/86 on 27.9.88 that the petitioners are in the zone of consideration and under the process of selection, they have undergone the selection test and the result thereof has not been declared so far and hence they should not be reverted in terms of the impugned order and it has lost its efficacy by the passage of time. In this regard he has invited our attention to the conditions under which the petitioners were promoted to the post of Ticket Collector. Especially reliance is sought on para 4 of the order of promotion dated 16th June 1980 ( Mark 28/3 ) which reads as under :

4. "The following Group 'D' employees are promoted to officiate purely on adhoc basis as TCs scale Rs. 260-400 (R) at the stations shown stations against each. These promotions are purely temporary and adhoc and they are liable to be reverted to when RCS TC candidates or regular rankers are made available on this division on any time as deemed necessary by the administration."

(Emphasis supplied)

6. On the basis of the aforesaid stipulation it is strenuously urged that the petitioners cannot be reverted unless and until, it is shown by the Respondents that RCS TC candidates or Regular Rankers are made available on this division. Now, it could be seen from the impugned order, that no reason what so ever had been assigned for the reversion. In the counter,

filed by the Respondents Railway Administration, it is not their case that regular RSC candidates are available and consequently, the orders of reversion has been passed. It is also borne out from para 12 of the the reply, filed by the respondents railway administration that there were juniors on the establishment prior to the order of reversion passed in the case of the petitioners. But it is their version that they were likely to be reverted by them. It is significant to note that till the conclusion of the proceedings of this application, they have not placed any orders of reversion to show that such juniors are reverted. The impugned order therefore, cannot be sustained on the ground that the condition laid down in para 4 of the order of promotion is not fullfilled. More over the principle of 'last come, first go' also does not seem to have been followed.

7. It is borne out from para 5 of the application filed by respondents wherein it is admitted that they started selection process. It is undisputed that the post of Ticket Collector is a selection post and before the petitioners acquire any substantive right they have to pass the requisite test and get themselves empanneled. At the same time, they can not be reverted unless and untill a regular RSC candidates are available as their substitutes. Even the respondents have stated that the action for selection is now being processed and if the application succeeds they will be placed on panel as per their seniority and they will be promoted as Ticket Collector. As stated earlier, the petitioners are still discharging the duties as Ticket Collectors and they are holding this position since 1980. As per the statement made by the petitioners in

their rejoinder, they have undergone the requisite test and they are awaiting their result. In T.A./571/86, wherein the petitioners were similarly situated, we have issued the directions against respondents railway administration that they may not be reverted until they are replaced by a regular RSC candidates or till completion of the procedure for selection, held for the post in question.

8. In view of the above circumstances and for the reasons stated in T.A./571/86 the respondents are ordered that the petitioners be not reverted until they are replaced by a ~~Selected Candidate or Regular ranker~~ <sup>Selected Candidate or Regular ranker</sup> ~~Regular revise substitute~~ as per the stipulation contained in para 4 of the office order dated 16.6.1980.

The application has merits and allowed to the extent stated above. There will be however no order as to costs.

  
( P.M. Joshi )  
Judicial Member

  
( D.S. Misra )  
Administrative Member

'A.Tripathi'