

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~Not Wooded Book~~

O.A. No. 396 WITH 342 OF 1986
~~XXXXXX~~

DATE OF DECISION 08-09-1989.

1. Shri Usman Umar Qureshi (OA/396/86)
1. Naranbhai H. Rathod & Ors. Petitioner
(O.A./342/86)

Mr. P. H. Pathak
Mr. K. G. Pandit

Advocate for the Petitioner(s)

Versus

Union of India and Others. Respondent

Mr. B. R. Kyada

Advocate for the Respondent(s)



CORAM :

The Hon'ble Mr. P. H. Trivedi

: Vice Chairman

The Hon'ble Mr. P. M. Joshi

: Judicial Member

OA/396/86

1. Usman Umar Qureshi,
C/o. Jawahar Store,
Tin Bathy,
Station Road,
Jamnagar.

... Applicant

(Adv. Mr.F.H. Pathak)

Versus

1. Divisional Railway Manager (WR)
Kothi Compound,
Rajkot.
2. Senior Divisional Mechanical
Engineer, Western Railway,
Kothi Compound,
Rajkot.
3. Loco Foreman,
Railway Loco Shed,
Hapa.

... Respondents

(Adv. Mr. B.R. Kyada)

WITH



OA/342/86

1. Naranbhai H. Rathod
2. Punja S.
3. Tulsibhai Haribhai Parmar
4. Khodabhai Amarabhai
5. Goverbhai Bhanabhai
6. Govindbhai Danabhai

... Applicants

(Adv.. Mr.K.G .Pandit)

Versus

1. Union of India, through the
General Manager,
Churchgate,
Bombay.
2. Divisional Railway Manager,
Western Railway,
Rajkot.
3. Assistant Loco Foreman,
Western Railway,
Suréndranagar.
4. Loco Foreman,
Western Railway,
Rajkot.

.... Respondents.

(Adv. Mr. B.R. Kyada)

J U D G M E N T

OA/396/86
with
OA/342/86

Date : 08-09-1989

Per : Hon'ble Mr. P.H. Trivedi : Vice Chairman

We decide to hear the two cases together because the facts and circumstances of the case and the law applicable to them are almost identical. The petitioners in both the cases were promoted on adhoc basis to the posts of Second Fireman on various dates since several years for which they were trade tested and which posts they have held admittedly for more than 18 months. Petitioners in OA/342/86 are Scheduled Caste employees. They have sought to be reverted by the impugned order dated 18th August, 1986 from such posts on the ground that they have been rendered surplus on account of dieselisation and that they, having not been substantively appointed to such posts such reversion is not a penalty and does not attract Article 311 (c) and no disciplinary proceedings are required to be taken up.

It is found that the said orders dated 18th August, 1986 were also challenged in another case No. OA/313/86, which was decided by us on 21-10-1986 for petitioners in that case on the same grounds. It is, therefore, not necessary to go into the contentions of parties in these cases as they have been examined earlier. When parties were called upon to give distinguishing features, learned advocate for the respondents stated that the ground of posts being found surplus on account of dieselisation is a new one in the present cases, but it is found that the plea of reduction of cadre rendering the applicants' surplus was also taken in OA/313/86 and in paragraph 4 of the judgment referred to, the merits of this plea have been specifically discussed. We find that the petitioners are at Sl.No. 23 (petitioner in OA/396/86) and

28, 31, 33, 35, 79 and 81 (petitioners in OA/342/86), have impugned order dated 18-8-1986 at Annexure - A to the petition in OA/342/86 while persons named at Sl.No. 3,4,15, 27, 28, 43, 53, 54, 55, 58, 59 had impugned the same orders in OA/313/86.

2. The petitioner has sought relief in terms of confirmation as second fireman from the date of initial promotion as second fireman and has urged that in terms of Railway Board Regulations dated 3-8-1968 a person officiating on regular basis against permanent post should be considered for promotion and that in terms of circular dated 2-12-1970 and 1-1-1971 that the employees who has completed more than 5 years service on the officiating or on adhoc-basis should be regularised against the direct recruit posts. The petitioner has not attached the circulars on which he relies and the respondents not having replied. We refrain from giving orders allowing or disallowing relief prayed for in this regard but would direct that the respondent considers the representation of the petitioner and for this purpose treats this petition as a representation and give speaking orders regarding this claim within a period of 4 months from the date of this order.

3. Accordingly we find that these cases will be governed by our decision in OA/313/86 dated 21-10-1986. The impugned orders have been quashed and set aside in OA/313/86. Accordingly the said orders qua petitioners are also quashed and set aside in these two cases. Rule made absolute. No order as to costs.

Prepared by: REL
8.9.89

Compared by: P.T.T.
08.09.89

TRUE COPY

Sd/-
(P.H. TRIVEDI)
VICE CHAIRMAN

Sd/-
(P.M. JOSHI)
JUDICIAL MEMBER

K. B. SANE
Section Officer
Central Administrative Tribunal,
Ahmedabad Bench.

