

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
A H M E D A B A D B E N C H  
XXXXXX

O.A. No. 184 1987  
XXXXXX

DATE OF DECISION 26/4/1990

Mohmad Yusuf Ibrahim Bayad Petitioner

Mr. J. R. Nanavati Advocate for the Petitioner(s)

Versus

Union of India and Another Respondent

Mf. J. D. Ajmera Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. N. Dharmadan .. Judicial Member

The Hon'ble Mr. M. M. Singh .. Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

O.A. No. 184 of 1987

Mohmad Musuf Ibrahim Bayad .. Applicant  
Versus  
Union of India & Anr. .. Respondents  
Counsel for the Applicant : Mr. J.R. Nanavati  
Counsel for the Respondents : Mr. J.D. Ajmera  
CORAM : Hon'ble Mr. N. Dharmadan .. Judicial Member  
Hon'ble Mr. M.M. Singh .. Administrative Member

O R D E R

Date : 26.4.1990

Per : Hon'ble Mr. N. Dharmadan .. Judicial Member

The applicant in this case challenges the termination order dt. 31.3.1987 which reads as follows :

" OFFICE ORDER

On the basis of the instruction contained in the Dte's Memo No.5(2)/87-5-II dated 25.3.1987, the services of Shri M.I. Bayad, Clerk Gr. II (adhoc) are hereby terminated with effect from 31.3.1987(A.N.). He may come to his original post of Motor Driver."

2. The contention raised by the applicant is that he was originally appointed as a Driver in 1971 and was promoted as Clerk Gr. II on ad hoc basis <sup>and now</sup> in the Office of Station Director, All India Radio, Bhuj on the scale of Rs. 260-6-290-EB-6-326-8-366-EB-8-390-10-400. The order of promotion is dated 13.5.1981. It <sup>contains</sup> various conditions but does not make a mention of passing of any test. The applicant submits that the impugned order is violative

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of principle of natural justice.

3. The respondents have filed a counter affidavit in which it has been stated that passing of the test ~~prescribed~~ by Staff Selection Committee is a condition for the regularisation of the applicant in the post of Clerk Gr. II. The applicant who appeared for the test for three times held by the Commission failed and he has also given an undertaking to the effect that he will not claim any right to regular appointment ~~unless he passes such test~~ to the post of Clerk Gr. II. On these averments the respondents content that the applicant has no right to be continued as Clerk Gr. II because his original appointment itself is ad hoc. Answering the reply, the applicant filed a rejoinder in which he demanded production of the undertaking by the respondents so that he may verify and make his submission. Till today respondents have not produced the undertaking referred to in counter affidavit. Learned counsel for the respondents read the undertaking from the file. We are not giving much importance to the undertaking, if any person gives any undertaking ~~without realising the~~ <sup>M.C.P.</sup> ~~there is no~~ <sup>and implicating kind of which he is</sup> legal position that ~~he did not~~ be given much weight. If the passing of the test was a condition precedent for the regular appointment of the applicant as Clerk Gr. II, the applicant should have been informed about the same. There is no record to show that such information has been given to the applicant ~~to the~~ <sup>M.</sup> applicant before passing the impugned order. The respondents also by order dt. 10.3.1987 allowed the applicant to pass EFFICIENCY BAR in 1987. It is thereafter the impugned order has been passed without affording him any opportunity of being heard.

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H. H. Singh  
( H. H. Singh )  
Administrative Member

N. Dharmadan  
( N Dharmadan )  
Judicial Member

\*Mogera