

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

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O.A. No. 288 of 1987.
~~Ex. No.~~

DATE OF DECISION 26.3.1991

Ishwarbhai M. Patel Petitioner

Mr. S.N. Soparkar Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Mr. R.M. Vin Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.H. Trivedi Vice Chairman

The Hon'ble Mr. R.C. Bhatt Judicial 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?

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Ishwarbhai M. Patel
Railway Quarter No.56/L
Valsad (West)
VALSAD

... Petitioner

(Advocate - Mr. S.N. Soparkar)

Versus

1. The General Manager,
Western Railway,
Churchgate,
BOMBAY.
2. Sr. Divisional Mechanical Engineer,
(Establishment)
Bombay Central,
BOMBAY
3. Shri Rameshbhai B. Patel,
Office of the Carriage Wagon Foreman,
Western Railway,
VALSAD.

... Respondents

(Advocate - Mr. R.M. Vin)

CORAM : Hon'ble Mr. P.H. Trivedi

... Vice Chairman

Hon'ble Mr. R.C. Bhatt

... Judicial Member

O.A. No. 288 of 1987

ORDER

Dated : 26.3.'91

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

... Vice Chairman

Heard learned advocate Mr. S.N. Soparkar and Mr. R.M.Vin for the petitioner and respondents respectively. Both sides have founded their respective contentions ^{largely} ~~highly~~ from the stand point of the competence of the respondents' revising seniority which had earlier been finalised in favour of the petitioner and which was later sought to be revised in favour of respondent No.3 because of the plea of the respondents that there was an error in shoing ^w the petitioner to be higher than respondent No. 3 in the seniority list which was required to be corrected. This was done not only after the petitioner was promoted but considerable time thereafter, ^W while passing the order correcting the alleged administrative error, ^t The respondents have taken care to see that neither beneficiary respondent No. 3 gets ~~error~~ ^{areas}

of pay^{due} to deem ^{ad} promotion ^{or} the petitioner is required to refund the ^{error} to be done on account of ^{his} ^{ed} reversion.

In terms when due to correction of error the reversion takes place, such a reversion is not a reduction in rank or punishment although ~~for future~~ no doubt there would be ^{an} adverse effect. The rules pointed out by the petitioner for effecting such reversion do not cover the case of

correction of administrative error. Respondents have shown that when they correct administrative error ^{are competent to} they can bring out a revision of seniority list and ^{in doing so are only} ~~are~~ required to follow

ab the rules of natural justice in so far as a notice to invite representations ^{has} to be given and representations received have to be disposed off on merits before the finalisation

of the seniority list. Thus, Respondents state, that they have scrupulously followed. In the rejoinder, the petitioner has made a bare denial but has not clarified whether he challenges ~~the facts~~ that ^{no} notice for representation having ~~not~~ been issued or representation having been submitted ^{all} or not considered

or any other ground. After hearing both the learned advocates, while on the question of competence to revise seniority list for correction or rectification of an error, there may

be no controversy, ^{We} are not sufficiently persuaded that a clear picture has been presented on the reasons why the seniority list needed to be revised to ~~unsettle~~ a settled fact in so far as the respective position of respondent No.3 and the petitioner is concerned. If the petitioner is today

challenging the revision of the seniority list after the expiry of the period in which representations were to be received, according to him, respondent No.3 also did not challenge the seniority list by which the petitioner was placed above him at a much earlier date and even after

petitioner enjoyed promotion as a result of that seniority list. We are not clear as to why the respondent authorities have found ^{it necessary to} ~~merits~~ in undertaking this exercise and if they

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have done so with good reason, why they are not precluded from considering representation of the petitioner on merits in order to arrive at a conclusion whether a further revision of seniority list is called for or whether the fact of the ^{any} error can be got over by any other manner so far as accommodating respondent No.3 and the petitioner in any future pattern of promotion. ^{is concerned} In the facts and circumstances of this case, therefore, we feel that the respondents should be given an opportunity of considering whether the case demands a review and whether a fresh disposal of it by speaking order is rendered necessary. We therefore direct as follows :-


The respondent No. 2 the Sr. Divisional Mechanical Engineer (Est) considers the petitioner in this case alongwith the documents annexed and examine whether a review of the ~~ground~~ memorandum is called for, for the reasons stated in it on merits and ^{that he} passes a speaking order within a period of four months from the date of this order giving ^{reason} details as to why a revision in the seniority list causing an adverse effect to the petitioner is necessary and in doing so he should afford an opportunity to the petitioner and respondent No.3 and any other party affected by this proceedings to be heard in the matter.

Our attention was drawn to the fact that the petitioner is asked to vacate the quarter allotted to him and for which interim relief has been allowed. The petitioner be not disturbed in the occupation of the quarter for a period of one month after the said speaking orders are communicated. ^{Shrin.}

With the above directions, the case is disposed off.

No order as to costs.


(R.C. BHATT)
Judicial Member


(P.H. TRIVEDI)
vice Chairman