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CAT/3/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH  
~~NEW DELHI~~

O.A. No. 30 OF 1987.  
~~Ex N~~

DATE OF DECISION 19-9-1990

SHYAMSUNDER P. MEHTA Petitioner

MR. C.S. BADKAS Advocate for the Petitioner(s)

Versus

UNION OF INDIA & ORS. Respondent s.

MR. N.S. SHEVDE Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.M. SINGH, ADMINISTRATIVE MEMBER.

The Hon'ble Mr. N.R. CHANDRAN, 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*

CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH

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PRESENT

The Hon'ble Shri M.M.Singh, Administrative Member  
and

The Hon'ble Shri N.R.Chandran, Judicial Member

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Original Application No. 30 of 1987

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Shyamsunder Pradyumn Mehta .. Applicant

-Vs.-

1.Union of India rep. by  
Secretary, Ministry of Railways,  
Govt. of India, New Delhi

2.The General Manager  
Western Railway, Church Gate,  
Bombay

3.The Divisional Railway Manager,  
Baroda Division, Western Railway,  
Pratap Nagar, Baroda

4.N.J.Pandya, through .. Respondents  
Divisional Railway Manager,  
Western Railway, Baroda Division,  
Pratapnagar, Baroda

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Mr.C.S.Badkas .. Advocate for the  
applicant

Mr.N.S.Shevde .. Advocate for the  
respondents

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Order pronounced by  
The Hon'ble Shri N.R.Chandran, Judicial Member

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This application has been filed  
by the applicant seeking the relief that the  
respondents should be directed to absorb him  
in as a Class-III staff, with consequential  
benefits arising therefrom.

The case of the applicant is that  
he was recruited from open market for Class-III  
post in the Commercial Branch of the Western  
Railway on 27.3.1980 and that his services were  
utilised as a Ticket Collector-cum-Commercial  
Clerk, which is a Class-III category carrying  
a pay scale of Rs.260-400 (pre-revised). Even  
though the applicant had worked for more than  
122 days up to 1.6.1981, he was not absorbed  
and whereas all juniors who were recruited in  
after screening  
the same batch have been absorbed. According  
to the applicant he was never ~~initially~~ screened  
and thus he was meted out with a discriminatory  
treatment. Aggrieved against the action of  
the respondents, the applicant resorted to HUNGER  
STRIKE on 28.11.1985, and On 7.12.1985 he was

MR

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given a Class-IV post carrying a pay scale of Rs.196-232(pre-revised) on a substitute basis, depending on the exigency of service. According to the applicant, his non-absorption would be patently illegal and arbitrary. He has therefore approached the Tribunal seeking the relief cited supra.

The counsel for the respondents on the other hand would submit that the applicant was not recruited from the open market and that he was engaged only as a substitute Commercial Clerk <sup>To meet MR</sup> ~~during~~ the summer rush and Deepavali rush seasons. Since the applicant did not work continuously for more than 120 days, he was not conferred the temporary status. The counsel <sup>in so far as</sup> would also submit that ~~that~~ other persons whose names are mentioned in the application, they are not juniors to the applicant. The learned counsel submitted that those persons had been granted temporary status before 1.6.1981 and therefore were called for ~~x in~~ screening.

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He would say that since the applicant has not been conferred temporary status, his case was not called for screening. The learned counsel then invited a reference to the instructions dated 26.3.82 governing the subject at the time of hearing of the case. He contended that as the applicant, did not fulfil the conditions laid down in the instructions, the respondents thought it fit to screen only such of those candidates who had been conferred temporary status before 1.10.81. The learned counsel therefore prayed for a dismissal of the application.

We have heard the rival contentions.

The case of the applicant is that the  
1980<sup>m</sup>  
was recruited on 27.3.1990 and the order dated 27.3.80<sup>80. m</sup>  
refers to the applicant's appointment only as a substitute Ticket Collector. However, the case of the respondents is that the applicant had worked for less than 120 days. According to Rule 2318 of the Railway Establishment Manual, temporary status can be granted to an employee if he/she had put in more than 120 days of continuous service. As seen from Annex. A filed along with his application, we notice that the statement of

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of the applicant that he had <sup>been</sup> working continuously for more than 120 days does not appear to be correct. Therefore, the applicant would not be entitled to seek temporary status. With regard to the process of screening of individuals, <sup>who were recruited as</sup> ~~on~~ substitute ~~basis~~, we notice that such appointments are governed by the instructions of the Railways dated 25.3.82. It is seen therefrom that substitute who had been conferred temporary status before 1.6.81 alone should be called for screening. As the applicant did not satisfy this criterion, he was not called for screening. We are therefore of the view that the very basis of attack of the applicant that the respondents ought to have called him for screening, is without substance and is therefore unsustainable.

With regard to the contention of the applicant that persons junior to him have been screened and appointed in a Class II posts, we have perused the reply affidavit filed by the respondents. It is seen therefrom that the cases of persons referred to by the applicant are quite different and we hold that there is no discrimination.

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In view of the above and in as much as the applicant had not put in continuous service for more than 120 days before 1.6.1981, we are of the view that the applicant has not made out a case in support of the relief prayed for. We hold that the application is devoid of merit and is dismissed.

However, there is no order as to costs.

N.R. Chandran

(N.R. Chandran)  
Judicial Member

M. M. Singh  
19/5/80

(M.M. Singh)  
Administrative Member

Index: no

nks/svs