

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**O.A. NO.**

568 of 1987

~~TA NO.~~DATE OF DECISION 21.7.95Shri V.K.Tripathi

Petitioner

Shri N.N.Thakore

Advocate for the Petitioner (s)

Versus

Union of India and ors.

Respondent

Shri N.S.Shevde

Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. N.B.Patel

: Vice Chairman

The Hon'ble Mr. K.Ramamoorthy

: Member(A)

JUDGMENT

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

No

(6)

: 2 :

Shri V.K.Tripathi
Shop Superintendent (Millwright)
Vadodara Division.

...Applicant.

(Advocate : Mr.N.N.Thakore)

Versus

1. Union of India,
Secretary,
Ministry of Railways,
Rail Bhavan, New Delhi.
2. The General Manager,
Western Railway, Churchgate,
Bombay.
3. Chief Workshop Manager,
Western Railway, Carriage
Workshop, Lower Parel,
Bombay.
4. Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda - 390 004.
5. Divisional Mechanical Engineer (Loco),
Western Railway, Pratapnagar,
Vadodara - 390 004.
6. The Dy. Chief Mechanical Engineer (Loco Workshop),
Western Railway, Dahod,
Dist : Panchmahals.
7. Shivpal Verma,
Shop Supdt. (MW) Loco Workshop,
Dohad, Dist : Panchmahals.

...Respondents.

(Advocate : Mr.N.S.Shevde)

ORAL ORDER
O.A.NO.568 of 1987.

Date : 21.7.1995.

Per : Hon'ble Mr.N.B.Patel : Vice Chairman

The applicant and his advocate are not present,
though intimated. Dismissed for default. No order as to
costs.

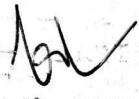

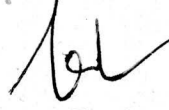
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(K.Ramamoorthy)
Member(A)

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(N.B.Patel)
Vice Chairman

ait/djp.

Date	Office Report	ORDER
5-9-95		<p>Sick note filed by Mr. Handa. Adjourned to 11-9-95.</p> <p> (V. Radhakrishnan) Member (A)</p> <p>ssh</p> <p>Mr Handa not present Adjourned to 12-9-1995.</p> <p> (V. Radhakrishnan) Member (A)</p> <p>(N.B. Patel) Vice Chairman</p>
11-9-1995		<p>*AS.</p>
12.9.95		<p><u>M.A.558/95 in O.A. 568/87</u></p> <p>M.A. allowed. Order dismissing the O.A. for default is set aside and the O.A. restored to file. M.A. stands disposed of accordingly. The matter may be placed for final hearing on 5th October, 1995.</p> <p> (V. Radhakrishnan) Member (A)</p> <p>vtc.</p>

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CAT/J/13

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 568/87
T.A. NO.

DATE OF DECISION 5.10.95

V.K.Tripathi _____ **Petitioner**

Mr.P.K.Handa _____ **Advocate for the Petitioner (s)**

Versus

Union of India & Ors. _____ **Respondent**

Mr.N.S.Shevde _____ **Advocate for the Respondent (s)**

CORAM

The Hon'ble Mr. N.B.Patel, Vice Chairman

The Hon'ble Mr. V.Radhakrishnan, Member (A)

JUDGMENT

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

No

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V.K.Tripathi,
Shop Supdt.(Millwright),
Western Railway,
Baroda Yard.

Applicant

(Advocate Mr.P.K.Handa)

Versus

1. Union of India,
Secretary, Ministry of Railways,
Rail Bhavan, New Bhavan,
New Delhi.
 2. General Manager,
Western Railway,
Headquarter Office,
Churchgate,
Bombay-400020.
 3. Chief Workshop Manager,
Western Railway,
Carriage Workshop, Lower Parel,
Bombay
 4. Divisional Railway Manager,
Western Railway,
Divisional Office,
Pratapnagar,
Baroda-390004.
 5. Divisional Mechanical Engineer(Loco)
Western Railway,
Pratapnagar,
Baroda-390 004.
 6. Dy.Chief Mechanical Engineer(Loco Workshop),
Western Railway, Dahod,
Dist.Panchmahals,
 7. Shivpal Verma,
Shop Supdt.(MN) Loco Workshop,
Dohad Dist.Panchmahals.
- (Advocate: Mr.N.S.Shevde)

Respondents

ORAL ORDER

O.A.No.568/87

Date:05/10/95


Per: Hon'ble Mr.N.B.Patel


: Vice Chairman

After the arguments were heard at some length, Mr.Handa,
the learned advocate for the applicant, states that the
applicant is prepared to address a representation either
~~himself~~ ^{singly} or jointly with Shri Harcharan Singh claiming

: 3 :

regularisation in the grade of Rs.2375-3500 from a date earlier than the dates from which they are regularly promoted to that grade in such a way that Shri Harcharan Singh would rank above the applicant ^{on} ~~qua~~ seniority. Mr.Handa further states that the applicant will be satisfied, at this stage, if the Respondent No.3 is directed to take decision on such representation within a fixed time-limit. The applicant, either singly or jointly with Shri Harcharan Singh, may make a representation to the appropriate authority (Respondent No.3) within 15 days from the date of the receipt of a copy of this judgment for according regularisation to them in the above grade from the dates earlier than the dates from which they are given regularisation but in such a way that Shri Harcharan Singh ranks above the applicant on the seniority list of ~~the~~ grade. If such a representation is made accordingly, the Respondent No.3 is directed to take decision on the representation within a period of 90 days from the date of the receipt of the representation by ~~him~~ and to communicate his decision to the applicant and Shri Harcharan Singh within a period of 10 days after it is taken. In view of these directions, Mr.Handa seeks permission to withdraw the present O.A. with liberty to the applicant, either singly or jointly with Shri Harcharan Singh, to file a fresh O.A. in the event of the decision on the representation aggrieving the applicant and/or Shri Harcharan Singh. Permission granted with liberty as prayed for. O.A. stands disposed of accordingly. No order as to costs.


(V.Radhakrishnan)
Member (A)


(N.B.Patel)
Vice Chairman

(1)

Respectfully submitted to Hon'ble Vice Chairman.

This is regarding authorisation to all the Members of the Central Administrative Tribunal to function of a Bench constituting of Single Member.

The Hon'ble Chairman of the Central Administrative Tribunal, Principal Bench, in exercise of his Lordship's powers conferred by sub section 6 of section 5 of the Administrative Tribunals Act, 1985, has been pleased by His Lordship's order dated 21st March, 1988 to authorise all the Members of the Central Administrative Tribunal to function as a Bench constituting as a Single Member and to exercise jurisdiction, powers and authority of the Tribunal in respect of the cases or class of cases specified in the order which is placed hereunder at Flag 'A'.

Thereafter, in exercise of powers delegated under para 6 of the said order, Your Lordship have been pleased to make an order dated 20.4.1988 (Flag 'B') to constitute a Bench of One Member and to distribute the business to each Member with effect from 1st May, 1988.

Accordingly, the cases relating to Change of Date of Birth while in service have been made triable by Hon'ble the Judicial Member. Now, Hon'ble the Judicial Member has been pleased to raise a question as to whether cases relating to Change of Date of Birth instituted by an employee while in service remain triable by the Single Member if such an employee retires before the case is finally decided. The Hon'ble Member is of the view that the cases relating to Change of Date of Birth remain triable by Single Member Bench only if the

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employee/petitioner continuous in service till the lis is finally decided by the Member. According to the Hon'ble Member if the employee/petitioner retires before the case is finally decided, it ceases to be triable by a Single Member Bench and becomes triable by Division Bench. The Hon'ble Member is of the view that the order of Hon'ble Chairman confers jurisdiction, powers and authority of the Tribunal on a Single Member Bench in respect of "cases relating to Change of Date of Birth while in service" and if the Single Member continues to hear it after retirement of the petitioner from service, his order will be one without jurisdiction in as much as continuing to exercise jurisdiction by one Member will amount to reading the word "filed" in between the words "Date of Birth" and "while in service". The Hon'ble Member holds the view that such a word cannot be read in the clause so as to assume jurisdiction, powers and authority to decide the case and that one Member Bench should cease to exercise jurisdiction in such a case if the employee-petitioner retires pending the lis.

The question raised by the Hon'ble Member is debatable because another view of the aspect can be that once the jurisdiction, powers and authority to try a case by Single Member is vested it cannot be divested by subsequent change of circumstance such as retirement of the employee from service. The order of the Hon'ble Chairman is administrative in nature. However, in view of the Hon'ble Member's belief that the Single Member loses jurisdiction if the petitioner retires pending the litigation, We may, if, approved, make reference to the Principal Bench to issue necessary clarification in this regard.

A - As proposed. Review 26/7/88 B - Acl -
REGISTRAR.

CAT (J)

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Respectfully Submitted
to Hon'ble Vice Chairman

On account of retirement of Shri P.M.Joshi,
Judicial Member the work distribution is require
to be modified. The revised order put up on Flag
A may please be issued if approved.

DY. R. (J)

[Signature]

1c Sawe
17-10-89

DY. R. (A)

[Signature]
18/10/89

HON'BLE VICE CHAIRMAN

[Signature]
18/10/89

CAT (J)

Most respectfully submitted to Hon'ble Vice Chairman

The revised order put up of Flag A may please
be issued if approved.

Flag A
P. 45-47
C

1c Sawe
26.10.89.

DY.R. (J)
(On leave)

DY.R. (A)

[Signature]
26/10/89

HON'BLE V.C.

As slight, amended
[Signature]
26/10/89