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CAT/3/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
NEW DELHI
XXXXXXXXXXXX

O.A. No. 584 of 1987
~~T.A. No.~~
~~XXXXX~~

DATE OF DECISION 27.3.1991

M.N. Nair Petitioner

Petitioner in person Advocate for the Petitioner(s)
(Mr. K. C. Chivvis) Versus

Union of India & Ors. Respondent

Mr. N.S. Shevde 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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M.N. Nair,
4, Jayendrapark Co-op.
Housing Society,
Nr. 'D' Cabin,
Sabarmati,
Ahmedabad-380 019.
(Petitioner-in-person)

.. Applicant

Versus

1. Union of India,
Through,
General Manager, W.Rly.,
Churchgate,
Bombay-400 020.
2. General Manager,
Western Railway,
Churchgate,
Bombay - 400 020.
3. Works Manager(Signal),
Western Railway,
Sabarmati,
Ahmedabad-380 019.
(Advocate - Mr. N.S. Shevde)

.. Respondents

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

.. Vice Chairman

Hon'ble Mr. R.C. Bhatt

.. Judicial Member

O.A. No. 584 of 1987

ORDER

Dated : 27.3.1991

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

.. Vice Chairman

The petitioner stated that in the absence of his advocate, he would prefer to argue in person and was allowed to do so. His attention was drawn to the fact that he has claimed relief in terms of direction ^{for} ~~that~~ orders for regular promotion in the scale Rs. 550-750(R) w.e.f. 1.1.1984 and for orders for grant of stepping up of pay to him ^{as} to that of his junior Shri Arjundev Sethia from 24.12.1983 in the grade of Rs. 550-750(R). It was pointed out that these two reliefs are independent of each other and are not related to each other and are not consequential from each other

and accordingly ~~to them~~ become multiplicity of reliefs which cannot be prayed for in the same petition. On this, the petitioner stated that in this petition, he would restrict himself to relief in sub clause 2 of para 12.

2. It is not disputed by the respondents that Shri Arjundev Sethia was appointed on a purely temporary and on ad-hoc basis. Learned advocate for the respondents stated that persons outside Bombay do not accept offers of promotion in Bombay due to extreme difficulties of obtaining accommodation and other reasons. Shri Arjundev Sethia is stated to have continued in the ad-hoc promotion for a considerably long period since the date of that order i.e. 24.12.1983.

3. It is also not disputed that the petitioner was not offered promotion and that he refused. *There is no plea*

from the respondents that the petitioner was not otherwise fit for ad hoc promotion.

4. We pointed out to the learned advocate for the respondents that in making ad-hoc promotions which continued for a very long period, the claims of the persons senior to the person promoted cannot be overlooked. The plea that the promotion was purely local or fortuitous will not hold if the promotion continues for a period beyond three months. In this regard, Railway Board's directions dt. 27.6.1983 are referred to. These directions allowed ad hoc arrangement for a period of three months on the ground of fortuitous circumstances justifying local promotion but in terms the directive states that such ad hoc arrangement should lapse **after** a period of three months. In this case Shri Arjun Sethia's promotion has continued much more than the said period of three months.


5. In the facts and circumstances of this case, therefore,

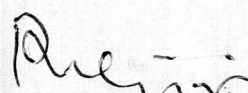
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the petitioner has justification for claiming monetary benefits of the ad hoc promotion which has not come ~~in~~ his way. Had he been offered such promotion and had he refused it, there would have been no cause or grievance merely by his ^{junior} ~~Le~~ having continued in the ad hoc promotion for a much longer period. However, he cannot be denied the monetary benefits merely ~~upon~~ the basis of a surmise that he would have refused it, ~~Had~~ he been so offered. Giving him retrospective promotion or even stepping up his pay involve other questions which cannot be claimed by the petitioner on the basis of his junior having been promoted beyond a period of three months on ad hoc basis. It is appropriate and just and adequate that the relief is directed in the following terms:

After the lapse of a period of three months from the date of the order dt. 24.3.1984 i.e. ^{from} ~~upto~~ 24.7.1984, the pay and other emoluments which the petitioner would have been entitled to, had he been promoted on ad hoc basis on which his junior Shri Arjunde Sethia was promoted, the petitioner is declared entitled to such monetary benefits until the period of ad hoc promotion of Shri Arjunde Sethia ^{ends} and such monetary benefits be calculated and paid to the petitioner within four months of the date of this order and ~~for~~ any delay after 5 months from the date of this order in making such payment, the petitioner is entitled to interest at the rate of 12% of the amount left unpaid.

The petition has merit ~~and~~ to the extent stated above and is allowed. No order as to costs.


(R C Bhatt)
Judicial Member


(P H Trivedi)
Vice Chairman

RA/16/91
in
MA/297/91
in
OA/584/87

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Date Office Report

Order

15/06/92

W

the bench including
To post the case before/
Hon'ble Mr. R. C. Bhatt Member (J) on
16th June, 1992.

B. B. Mahajan
(B. B. MAHAJAN)
Member (A)

D. L. Mehta
(D. L. MEHTA)
Vice Chairman

AIT

16.6.92

The prayer in the M.A. was for extension of time for three months from 25.7.91 for complying with the direction of the Tribunal in O.A.584/87. That time has also lapsed. M.A. has therefore become infrectuous and is dismissed accordingly. M.A. ~~is~~ stands disposed of.

R.A.No. 16/91

Heard the applicant in person. The R.A. is admitted for hearing. Mr.N.S.Shevde, counsel for the respondents accept notice on behalf of respondents. Reply may be filed within four weeks, then the applicant may file rejoinder if any within two weeks. The case may listed for hearing thereafter. The applicant may be informed ^{about} ~~that~~ the date fixed for hearing *when it is fixed.*

R.C. Bhatt
(R.C. Bhatt)
Member (J)

B. B. Mahajan
(B.B. Mahajan)
Member (A)

ttc.

7/5/92

R.A./16/91

in

O.A./584/87

Date

Office Report

Order

6.8.1992

Present: Mr. N.S. Shevde, Adv/Res.

The applicant has filed review

7/5/92

(1)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

R.A./16/91 in
O.A./584/87
~~O.A. No.~~
~~LA No.~~

DATE OF DECISION 6.8.1992

M.N.R. Nair Petitioner

Mr. A.K. Chitnis 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.V. Krishnan : Vice Chairman

The Hon'ble Mr. R.C. Bhatt : Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
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M.N. Nair,

.... Applicant.

Vs.

1. Union of India,
Through;
General Manager,
Western Railway,
Churchgate,
Bombay- 400 020.
2. General Manager,
Address,
As above.
3. Works Manager (Signal)
Western Railway, Sabarmati,
Ahmedabad- 380 019. Respondents.

ORAL JUDGMENT


R.A./16/91
O.A./584/1987 in


Date: 6.8.1992.

Present: Mr. N.S. Shevde, Adv/Res.

Per: Hon'ble Mr. N.V. Krishnan, Vice Chairman

1. The applicant has filed review application no. 16/91 in O.A./584/87. in respect of the order dated 27.3.1991.
2. Notice has been issued to him. It has already been served. The case has been called twice. But he is not present. Hence, R.A. is dismissed for default.


(R.C. Bhatt)
Member (J)


(N.V. Krishnan)
Vice Chairman

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