

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 666/87

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DATE OF DECISION 12-09-1991

Shri Lakhubha Jorubha Gohil & Ors. Petitioner

Mr. M.M. Xavier

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. M.M. Singh

: Administrative Member

The Hon'ble Mr. R.C. Bhatt

: 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? *Yes*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

1. Lakhubha Jorubha Gohil,
New Railway Colony, Block No.160 A
Bhavnagar para.
2. Ramubhai Manilal Rana
LIG 107 Shastrinagar, Bhavnagar.
3. Vinodray Jagjivandas Rajyaguru
Railway Quarters No.166 'B'
New Railway Colony, Botad.
4. Kanaiyalal Udayshankar Rawal
Block No.224 'A'
Samnathpara, Near B Cabin
Jetalsar.
5. Chimanlal Dholatrali Bhatt,
C/o. Sr. Electrical Charge man,
Western Railway, Junagadh.
(Advocate: Mr. M.M.Xavier)

: Applicants

Versus

1. The Union of India
Through:
General Manager,
Western Railway, Churchgate,
Bombay.
2. The Divisional Railway Manager,
Western Railway, Bhavnagar
Division, Bhavnagar Para.
3. Senior Electrical Charge man,
Western Railway, Junagadh.
4. Shri S.K.Baraia
C/o. Sr. Electric Foreman,
Bhavnagar para.
5. Shri Ghanshyam C.
C/o. Senior Electrical Foreman
Western Railway, Botad.
6. Shri Jayendra P.Bhatt,
C/o. Senior Electrical Foreman,
Western Railway, Botad.
7. Shri Mohmed M
C/o. Senior Electrical Foreman
Western Railway, Junagadh.
(Advocate: Mr. R.M.Vin)

: Respondents

JUDGMENT

O.A.666/87

Date: 12-9-1991

Per: Hon'ble Mr. R.C.Bhatt

: Judicial Member

1. This application under Section 19 of the Administrative Tribunals Act, 1985, is filed by five applicants against the respondents—railways and others for a declaration that the

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letters dated 25th May, 1987, 30th November, 1987 and 15th May, 1987 of the respondents are in violation of the directives issued by the Railway Board vide their order dated 10.7.1985 and that the said letters of the respondents are illegal and be set aside and for a further declaration that the applicants are entitled to continue as Electric Fitter (Meter Readers) on the upgraded posts with all the consequential benefits.

2. The respondent No.2 is the Divisional Railway Manager, Western Railway, Bhavnagar Division who is the executing and controlling authorities while the respondent No.3, Senior Electric Chargeman, Western Railway, Junagadh is the immediate Supervisor of the Applicant No.5. The respondent No.4 to 7 are the persons joined in this application who according to the applicants are likely to be affected if the prayer of the applicants is granted. It is alleged by the applicants that they were working as Electrical Fitters in the pay scale of Rs. 260-400 (R) on the Bhavnagar Division of Western Railway administration and they being found fit were posted as Electrical Fitters (Meter Reader) in the same scale and pay prior to the upgradation. It is alleged that as a result of restructuringⁱⁿ the categories of artisan staff, large number of posts in the scale of Rs. 260-400 (R) were upgraded to Rs. 330-480 (R) to 380-560 (R) respectively. Pump Attendant (SPA), Engine Room Attendant (ERA), Electrical Fitter Pump Overhauling Gang (POG) Electrical Fitter Station Lighting, Electrical Fitter (Meter Readers) are some of the categories in the Electrical Department. In this case, the promotions on account of upgradation were given by upgrading the post held by the incumbents as stated above. It is the case of the applicants that the

Railway Board's intention vide Railway Board's letter letter dated 10.7.1985 produced at Annexure A/4 was to upgrade the post in all categories while restructuring the cadre of artisan staff. Thus each category i.e. Electrical Fitter (POG), Electrical Fitter (SL), Electrical Fitter (MR) etc. was required to be upgraded as per the directions issued by the Railway Board and Electrical Fitters (MR) were also given similar benefits. The applicants have produced at Annexures A/1, A/2 and A/3, the copies of the orders by which the applicants and others were promoted to the post of Electrical Fitter (MR)/POG/SL, etc. against the upgraded post in the respective categories.

3. It is the case of the applicants that one of the recognised unions viz. Western Railway Mazdoorsangh had been pressuring the Divisional Railway authorities to allot the posts of Electrical Fitters (Meter Reader) operated in Grade I to the Electrical Fitter Grade III so as to favour their own members which idea was opposed by the other Assistant Union i.e. Western Railway employees' union. It is alleged that the Western Railway Employees' Union was replied in the meeting dated 18.9.1986 that there would be no change in the existing set up of the meter readers and that they would be allowed to work as meter readers. The applicant No.5 was however called by the Respondent No.3, who himself is an active office bearer of the Mazdoor Sangh on 15.5.1987 and was served with the impugned order dated 15.5.1987 produced at Annexure A/5. According to the applicants, the applicant No.5 was singled out and has been relieved from his duties of meter reader with effect from 15.5.1987. The applicant No.5 thereafter submitted a representation dated 16th May, 1987 and his case was also represented by the Western Railway employees union vide

letter dated 3.6.1987 wherein the respondents were reminded all the assurance given to him in the meeting dated 18.9.1986. The copy of the letter dated 3.6.1987 and the representation dated 16.5.1987 are produced at Annexure A/7 and A/6 respectively. It is the allegation of the applicants that the respondent No.2 on account of continued pressure from Western Railway Mazdoorsang issued order Annexure A/8 dated 25.8.87 that the post of Electrical Fitter (Meter Reader) would operate only in the pay scale of Rs.260-400(R). According to the applicants, this order is against the policy envisaged in the letter dated 10.7.1985 at Annexure A/4.

4. The applicants alleged that there is combined seniority so far as the cadre of Electrical Fitters (SL), (SPA), (POG), (MR) is concerned, but the promotions on account of upgradation were given in each of the categories. Thus according to the applicants the act of the respondent No.2 is arbitrary and against the Railway Board's letter dated 10.7.1985. It is alleged that the Divisional Railway authorities have no power to revise the policy of the Railway Board and the action is, therefore, arbitrary and discriminatory. It is alleged that the impugned order dated 25.8.1987 at Annexure A/5, the juniormost persons from each unit are to be considered for the post of Meter Readers in the place of applicants 1 to 5. It is alleged that the respondents 4 to 7 do not comply with the requirements laid down in the impugned order dated 25.8.1987 but now the respondents have issued letter dated 30.11.1987 selecting the respondents No 4 to 7 for the post of Meter Reader produced at Annexure A/11 and the action of the respondents is to favour definite individuals. It is alleged that the applicants are to be relieved from the post of Meter Readers on completion of the training period without giving them any opportunity of being heard. It is alleged that the action on the part of the respondents is violative of Articles 14 and 16 of the Constitution of India.

5. At the time of hearing of this application none was present for the applicants. The learned advocate for the respondents took us through the contents of the application, reply of the respondents and all the documents produced on record. He submitted that out of five applicants, four applicants had previously filed similar O.A./520/87 which was dismissed on 27.10.1987. Reading the order passed in OA/520/87 it is clear that out of these five applicants, four applicants had filed the said application challenging the validity of the instructions contained in the letter dated 25th August, 1987 which is Annexure A/8. The application was rejected as it did not disclose any cause of action. The applicants were given opportunity to approach the Tribunal in case any such orders against them were served in future.

6. Learned advocate for the respondents submitted that Annexure A/5 is the impugned order served to all the applicants while the two letters Annexure A/8 and A/11 dated 26.8.1987 and 30.11.1987 respectively are the internal correspondence between the department of the respondents. It is submitted that the Railway Board's letter dated 10.7.1985 produced at Annexure A/4 is nothing but an administrative instruction. He submitted that the respondents have categorically replied in para 5 that no orders should issue or intended to issue for the applicant No. 4 for the present, as there is no application from any staff of Jetalsar to work as Meter Readers, and he is not affected and therefore he could not have any grievance.

7. The learned advocate for the respondents submitted that the impugned letter dated 15.5.1987 under challenge written to all the applicants by which they were asked to hand over the charge to others and by which the applicants were asked to work as Electrical Fitter I S.L. is not a

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Annexure/5

letter altering the service conditions of the applicants. and there is no malafide on the part of the respondents in issuing the impugned order nor it is violative of Article 14 and 16 of the Constitution of India nor such order is made in collusion with any railway employees' union. He submitted that there is no change in status, pay or scale of the applicants because the applicants are Fitter Grade-I and are still continued as such. We agree with the submission of the learned advocate for the respondents that the impugned order Annexure A/5 dated 15.5.1987 does not speak any change of status, pay or scale of the applicants, on the contrary they were asked to work as Electrical Fitter I, S.L. He also submitted that letters dated 25th August, 1987 and 30th November, 1987 produced at Annexure A/8 and A/11 are regarding better utilisation of available man powers. These two letters are only office correspondence and do not affect the applicants in any way, so far as their pay, scale status or station of posting is concerned. The applicants are in grade of Highly Skilled, Fitters Grade I in scale Rs 380-560/1320-2040 (RP). The post of Meter Readers can be managed by the persons in scale Rs. 260-400/950-1500 (RP). In our view, the Railway Administration has all the powers to utilise the staff according to their post. It is not disputed by the respondents that the artisan category has been upgraded w.e.f. 1.1.1984. The applicants cannot urge that even after their upgradation as highly skilled fitter, their nature of works should not be changed at all. The act of respondents cannot be said even as violation of the Railway Board's letter dated 10.7.1985 but it is ⁱⁿ consonance of para 5 of the said letter.

8. It is contended in the reply by the respondents that the applicants were originally belonging to station lighting group (power group), that they got the benefit

of the upgradation in power group only and as meter reading was being part and parcel of duties in power group, they were doing the work of Meter reading but they are fitters in power group also and have also passed the required trade test of that group. Therefore, the applicants having passed the trade test for highly skilled post of Fitters in power group, there is nothing wrong or arbitrary in utilising them in appropriate job of their scale and grade within the same group. Learned advocate for the respondents submitted that the job of meter reading is not a skilled job and can be managed by fitter in scale Rs.950-1500 (RP) and so the applicants who are highly skilled fitters Grade I can be used by the Administration for work of that grade. He rightly submitted that the decision of Railway Administration to utilise the applicants as Fitter Grade I and not as Meter Readers is an administrative decision taken for the better utilisation of staff. The averments in para 6.4 and 6.5. revealx that this application is more or less the result of rivalry between Western Railway Mazdoorsangh and Western Railway Employees' Union. The respondents have denied that the action is taken due to interference by any trade union. It is contended by respondents in the reply that the applicant No.5 has already been relieved from work of meter reader and has been kept at the same station and in the same grade and pay as highly skilled fitter grade I. The learned advocate for the respondents rightly submitted that the decision of the Railway Administration to use fitter grade III for work of meter readers is not against the policy of the Railway Board. All the fitters in power group i.e. Station Lighting (SL), Pump Overhauling Gang (POG), Meter Reader (MR) and engine room attendants (ERA) are in the same seniority group of power fitters and can be utilised in any of the above jobs. Accordingly, the applicants are now utilised in the same group of seniority

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and the proposed change is no way effecting the rights earned by upgradation.

9. We have considered the averments in the applications and the documents produced by the applicants and we find no substance in the application. They can have no objection to work as Fitter Grade I when they have passed trade test and when they are upgraded and holding the post of same pay and grade. The respondents No. 4 to 7 are the Fitters in Grade III in power group. Therefore, the applicants who are in Grade I can have no objection even if Respondents No. 4 to 7 are given the work of meter readers. There is no violation of Article 14 and 16 of the Constitution of India nor the action of the respondents any way malafide as alleged. The applicants cannot insist that they will not work as Electrical Fitter I S.L. Learned advocate for the respondents submitted that when there is no change in status, pay or scale of the applicants and when they are Fitter Grade I and they are continued to be such, they cannot refuse to work as per the impugned order. He submitted that so far internal correspondence Annexure A/8 and A/11 are concerned, the same also no way adversely affect the applicants. We agree with him on this point and we hold that impugned order Annexure A/5 is not illegal.

10. The result is that there is no substance in the application and the same deserves to be dismissed. The application is dismissed with no orders as to costs.

R.C. Bhatt
(R.C. Bhatt)
Judicial Member

M. M. Singh
12/9/91
(M.M. Singh)
Administrative Member