

## CENTRAL ADMINISTRATIVE TRIBUNAL

~~PRINCIPAL BENCH, DELHI~~  
AHMEDABAD BENCH

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O.A No. 103  
~~Ex No~~

1987

DATE OF DECISION 25.3.1991

Shri Ismail Ibrahim Ahmed Patel Petitioner

Party in person Advocate for the Petitioner (s)

Versus

General Manager, Western Railway, 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

JUDGMENT

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Shri Ismail Ibrahim Ahmed Patel,  
DRM(E), Mech.Branch,  
Divisional Railway Office,  
Pratapnagar, Vadodara.  
(Party in person not present)

: Petitioner

Versus

General Manager,  
Western Railway,  
Churchgate, Bombay.  
(Advocate: Mr.N.S. Shevde)

: Respondent

O.A./103/87

O R D E R

Date: 25.3.1991

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

This application is made by the applicant under Section 19 of the Administrative Tribunals Act, 1985 praying that he should be given the post of Senior Millwright Chargeman from 13.3.1981 and also has further prayed for the arrears of difference of the pay from the date 13.3.1991. It is alleged in the application that the applicant has been working as a Millwright Chargeman in Western Railway since 13.3.1991 that he had joined Central Railway as apprentice Mechanic (Diploma Holder) on 20.6.78, and after successfully having completed the prescribed training, he was retained in service as Millwright Chargeman at Central Railway Loco work, Bombay since 27th July, 1980. The applicant then joined Baroda Division of Western Railway at on his request for transfer on 13.3.1981 that he joined loco Kankariya shed on 13.3.1991 and his payscale was Rs.425-700 at the time he joined Kankariya Loco shed. The main allegation of the applicant is that as soon as he joined the post at Kankariya shed, one Shri Issa Alji adhoc Millwright chargeman was reverted to his original post

of Millwright fitter grade while ~~the applicant and~~ respondent No.2 and 3 who have been now deleted from the application were occupying the senior posts of Millwright chargeman in the grade of Rs.550-750 on adhoc basis and both of them were Grade I Millwright fitters. According to the applicant, these ~~two~~ respondents No.2 and 3 had not passed the panel test to reach the supervisory cadre and ~~so~~ looking to the seniority list on 13.3.1981, of Millwright section of Vadodara division of Western Railway, the first one was Shri V.K.Tripathi, seniormost in division and second was the applicant. Therefore, the prayer of the applicant <sup>is</sup> that he deserves to get the post of senior millwright chargeman (550-75) from 13.3.1981. The applicant during the pendency of this application has deleted respondent No.2 and 3 against whom he had complained.

2. The respondents have filed written statement contending that the seniority of millwright chargeman is maintained by Parel Workshop for the entire Western Railway and regular promotion in the Millwright Organisation in scale Rs.550-750 and above are ordered by Parel Workshop. It is contended by the respondents that in the year 1981, the applicant was not considered for adhoc promotion against the post of Millwright Chargeman because there was a major D.A.R. case pending against him at the relevant time and a penalty was imposed on him of stoppage of increment for two years and therefore he ~~could~~ <sup>was</sup> not consider <sup>ed</sup> for promotion. Thereafter, the applicant came to Baroda division from Central Railway on transfer at his own request. Since the applicant could not be considered for promotion for promotion on adhoc basis for the reasons mentioned in the written statement <sup>detailed</sup> ~~one~~, one Shri Mohmedmiya B. was continued on adhoc basis against the said vacancy and one additional post of Millwright Chargeman scale Rs.550-75

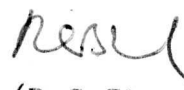
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was allotted to Diesel shed, Vatva by order dated 22.6.82, that against the said post Shri Mohmedmiya was transferred <sup>same</sup> and posted in scale and pay from Kankaria, and the applicant was promoted to scale Rs.550-750 against the vacancy <sup>caused</sup> ~~was~~ due to the transfer of Mohmedmiya vide order dated 16.11.1984 on adhoc basis, but the applicant did not carry out the above promotion and refused to accept the same vide his representation dated 25.12.84 and therefore he was debarred for promotion for one year on adhoc basis from 25.12.1984 to 24.12.1985 as per extant rules. It is also contended that by the respondents that ultimately the applicant was considered for regular promotion but he was not found suitable for the same on the regular basis, and the case was pending against the applicant which was a major D.A.R. case.

3. In the instance case on 13.3.1987 this Tribunal passed an order to join persons who were junior to the applicant as parties and the applicant was also directed to file documents like his appointment order and promotion on the basis of which he founded his claim. The applicant joined the two persons as Respondent No.2 and 3 but till today he has not produced the documents about his appointment order and promotion. The documents of appointment order and the promotion are the documents which are necessary in order to settle the controversy between the parties. The applicant during the pendency of the proceedings deleted Respondent No.2 and 3. The applicant also on 18.7.1990 wrote a letter to this Tribunal confining his case only about the difference in the pay of promotion post and for payment of arrears and deleting Respondent No.2 and 3 from the application. He has also mentioned in that letter that he did not desire to remain present and the case be heard in his absence. A detailed order was passed by this Tribunal accordingly on 6.3.1991. To-day the applicant is not present and as per his request the application is heard in his absence. Lea

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advocate for the respondents has raised the question of limitation that the grievance of the applicant pertains to the year 1981, he has filed this application after about six years and the application is barred under Section 21 of the Administrative Tribunals Act. The applicant in his application has not explained the delay in filing the application and therefore the application deserves to be dismissed on the ground of bar of limitation. However, in order to give finality of the judgment, we proceed to consider this application on merits also. The grievance of the applicant as embodied in his application pertains to the date of his appointment order and to the further orders of the department, regarding his promotion and regarding the promotions of the Respondent No.2 and 3. In absence of such documents on record, no such controversy can be settled only on mere allegation in the application because the pleadings is not the proof of the allegation. The applicant has not produced any document on record on the basis of which he seeks relief. Hence applicant has failed to prove his case and the application deserves to be dismissed. The application is dismissed with no orders as to costs.

  
(R.C.Bhatt)  
Judicial Member

  
(P.H.Trivedi)  
Vice Chairman

a.a.b.