

G

CAT/J/13

CENTRAL ADMINISTRATIVE TRIBUNAL

~~PRINCIPAL BENCH, DELHI~~

Ahmedabad Bench.

O.A No. 132 of 1988
~~Ex. No.~~

DATE OF DECISION 5.3.1991

Kasturbhai L Vaghela Petitioner

Shri A.J. Rathod Advocate for the Petitioner (s)

Versus

Union of India & Ors Respondent

Shri B.R. Kyada 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

Shri Kasturbhai Laghrabhai Vaghela,
Behind Refugee Colony,
Parsana Nagar,
Rajkot. Applicant
(Advocate-Mr. A.J. Rathod)

Versus

- 1. Union of India,
Through, General Manager,
W. Rly., Churchgate,
Bombay-400 020.
- 2. Divisional Rly. Manager,
W. Rly., Kothi Compound,
Rajkot.
- 3. Divisional Commercial -
Superintendent, W. Rly.,
Kothi Compound,
Rajkot. Respondents
(Advocate-Mr. B.R. Kyada)

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

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

O.A. No. 132 of 1988

O R A L - O R D E R

Dated : 5.3.1991

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

Applicant and his advocate absent. Heard
Mr. B.R. Kyada, learned advocate for the respondents.

This original application is filed by the applicant praying that he may be put to work as TTE to his original post as per assurance given by the then DRM/Rajkot and that he has also completed the punishment period long ago and as such his case deserves to be considered by the Railway Administration without further loss of time. It is averred in the application that the applicant is working as Ticket Collector at Jamnagar Railway Station in scale of

5

-- 3 --

Rs. 250-400 (R) under the control of Station Superintendent Jamnagar. It is also averred in the application that during his course of employment, it was alleged that he carried with him a party of 10 adults and one child passengers in second class compartment on 19.3.1983 without having proper pass or ticket to travel in the train which was detected during the course of vigilance check. That a departmental inquiry was held against him and as a result of the findings of the inquiry officer he was permanently reverted from class III to class IV services as Liverman in terms of Divisional Commercial Superintendent order dt. 28.2.1984. The applicant, therefore, made a representation and in response to his representation, a reply by the respondents was given as under :

"DCS, as I have explained to you and SC/ST members, he should first join his post as TNC and work for 3 months. Thereafter, he may be considered if his work is satisfactory to be put on back duty to work as TC along with his remaining case can be considered by DRM."

The applicant very much relies on this assurance of the respondentⁿ and ~~therefore he~~ has prayed that he should be put to his original post of TNC. The respondents have filed written statement contending inter alia, that the departmental proceeding was initiated against the applicant and he was charge sheeted and he was found guilty by the department and therefore he was reverted to the post of Liverman. That the applicant had also preferred appeal before the appellate authority against the departmental order which was considered on merits and the applicant

6

was posted as Trains Clerk (TNC) in scale of Rs. 260-400 and accordingly the applicant was posted as TNC. It was made clear to the applicant that he should first join the post of TNC and work for 3 months so that his case can be considered for re-posting as Ticket Collector, but the applicant has not chosen to take into consideration the advice of the department. It was also contended by the respondents in the written statement that the applicant was ordered to be posted as TNC by letter dt. 25th August, 1984 but the said order was not carried out till 13th November, 1984 and at that time the applicant expressed his inability to continue as TNC and he himself requested for posting as a Courier in same scale of pay and further represented that if no vacancy of Courier is available, he may be posted as Clerk in Divisional Office at Rajkot and according to this request, office order dt. 20th September, 1985 was made by which the applicant was ordered to be posted as Office Clerk in scale Rs. 260-400 as a change of category but the applicant did not carry out this order and continued to work as TNC. Then he was charge sheeted for serious misconduct and for failure to maintain devotion to duty and the applicant was found guilty for the charges levelled against him. It is contended by the respondents that no assurance as such is given to the applicant as alleged by him in his application ^{re} and ~~the~~ Annexure A-10 (page 26) produced by the applicant ^{is only} ~~which~~ shows that his case for posting as TTE will be considered as and when a vacancy of TTE occurs.

There is no rejoinder to the contentions taken by the respondents in the written statement,

Therefore, considering the assurance which the applicant had referred in application Annexure VII and even considering the copy of the letter produced at Annexure X (page 26), there is no case for the applicant to ~~compel~~ the respondents at present to post him at his original post of TTE. It was only the intimation to the applicant to his application dt. 12th February, 1986 that his case of posting would be considered as and when a vacancy of TTE^{is} occurs. Therefore, at present the applicant has failed to prove that the respondents have already intimated him to post him on his original post and the assurance on which he puts reliance cannot be considered as ~~just~~^{is} proof for posting him as TTE^{is}.

Thus, the applicant has failed to prove his case and is not entitled to any relief which he prays. The result is, ^{that} application deserves to be dismissed and the same is dismissed with no order as to costs. Application disposed of.

R C Bhatt

(R C Bhatt)
Judicial Member

P H Trivedi

(P H Trivedi)
Vice Chairman