

Seniority Promotion (No.)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 238/88

~~Ex. No.~~

DATE OF DECISION 21.2.1992

S. Natesan Iyer Petitioner

Party in person 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. M.Y. Priolkar

..... Member (A)

The Hon'ble Mr. R.C. Bhatt

..... Member (J)

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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S. Natesan Iyer,
Electrical Chorgeman
Power Supply Installation
(Traction Distribution)
Western Railway,
Mehmadabad.

Address: Block No.M-1
Flat No.8,
Prashant Apartment,
Opp: S.T.Nagar, Manjipura Rd.,
Nadiad, Dist: Kheda.

.... Applicant.

(Party-in-person)

Versus.

- 1) Union of India, Owning,
Representing and
Administrating through
Secretary, Railway Board,
Rail Bhavan, New Delhi.
- 2) General Manager,
Headquarters Office,
Western Railway,
Churchgate, Bombay.
- 3) Divisional Railway Manager
Traction Distribution
(Establishment) Western
Railway, Pratapnagar,
Vadodara.
- 4) Sri. Homi. Jamsedji
Electrical Chorgeman
Remote Control
Railway Managers Office
Pratapnagar, Vadodara.

..... Respondents.

(Advocate: Mr.N.S.Shevde)

ORAL JUDGMENT

O.A.No.238/88

Date: 21-2-1992.

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

The applicant present in person. Mr.N.S.Shevde,
appears for the respondents.

2. The applicant has filed this application
under section 19 of the Administrative Tribunals
Act, 1985, challenging the impugned order, Ann.A-1

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passed
No. E/ELT/830/3/1 TRD dated 16th October, 1987 /
by Respondent No.3 i.e., Divisional Railway
Manager Traction Distribution. It is the case of
the applicant that he has successfully passed the
selection of Electrical Chargeman grade 425-700(R)
on 3rd April, 1982 which is non-treated as regular
appointee in the said grade. The applicant,
therefore, has prayed by way of several reliefs
about his declaration as regular appointee in
that grade with consequential benefits and to
quash the order dated 16th October, 1987 and has
prayed other reliefs also. It is not
necessary to consider any relief other than
relief 9(b) because the applicant had pressed
only relief 9(b) and consequential benefits
arising therefrom and had not pressed any other
relief as per Tribunal's order dated 6th October,
1988. The respondents have filed written reply
resisting the application. The applicant had
filed rejoinder to it.

3. The applicant has filed written arguments
in this case. Today he is present and he has
submitted before us that the part of his
grievance in para 9(b) is satisfied inasmuch as
he is treated as regular appointee in grade
425-700/1400-2300 as Electrical Chargeman from

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3rd April, 1982. The learned advocate Mr. Shevde however, did not agree to this statement of the applicant. The applicant has produced on the record of this case at page 84, the copy of the letter dated 4th January, 1990 addressed on behalf of D.R.M. (E)-BRC to the Divisional Secretary, WREU-BRC as under :

"The case of Shri S. Natesan Iyer for assigning of seniority position in grade of ELC grade Rs. 1400-2300(RP) has been examined and based on CAT's decision on TANo. 819/86 he has been assigned position with effect from 3.4.82. The seniority position was provisionally notified under this office letter No. E/TRD/1030/10/4 dt. 23.6.88. This has now been confirmed based on the decision taken by DRM in the above case."

This letter makes position very clear that the assignment of the position to the applicant in grade of ELC as per this letter from 3rd April, '82 was confirmed and the same was based on the decision taken by DRM in the case of the applicant. Therefore, the order under challenge, Annexure A-1 requires to be quashed. However, Mr. N. S. Shevde, learned advocate for the respondents submitted that there were certain representations made against this assignment given to the applicant. The applicant has today produced before us ^{two letters} which may be taken on record, one is the letter dated 4th January, 1990 which is memorandum

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on behalf of DRM(E) BRC which shows that representations received in connection with the tentative seniority list of ELC 1400-2300 etc. had been examined and seniority list notified vide number quoted in the memorandum was treated as finalised except for Shri P.C. Sharma, whose case was subjudice. It also shows that this memorandum had the approval of DRM(E), ^{and} ^{were} ~~the~~ copies ~~also~~ sent to different department. It is not in dispute before us that so far P.C. Sharma's case is concerned, he had withdrawn his case from this Tribunal. The applicant, therefore, submitted that now no representation is also pending against the assignment given to him. He also produced another letter dated 4th January, 1990, written to the individual who had made representations to DRM that the representation made against provisional seniority list had been carefully examined and position assigned to the applicant's representation was confirmed. The important writing in the said letter is as under :

"Position assigned to Shri Natesan Iyer is as per CAT's judgment in TA 819/86 and has also been reviewed and confirmed."

The applicant, therefore, submits that no representation is pending against his case.

However, even if the representations are pending,

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the respondents may consider the question of giving all consequential benefits to him and then decide^{it}/ if there is any representation pending, but so far as the first part of 9(b) is concerned, namely, the regular appointment of the applicant in grade 425-700(R) claims to 1400-2300 as Electrical Chargeman from 3rd April, 1982, the same has become final. The contention^{now}/taken by the learned counsel Mr. Shevde for the respondents that if /a panel of seven persons was to be prepared 21 persons were required to be called for selection and if panel of nine persons was to be prepared then 27 persons were to be called^{for}/selection is rejected in view of this letter dated 4.1.1990. Moreover the applicant ^{submits} / ^{contention} that this^{is} not ^{now}tenable/in view of Railway Board's Headquarter No. 675 dated 27.10.1965. Hence we pass the following order:

ORDER

The application is partly allowed. The impugned order Annexure A-1 dated 16th October, 1987 is quashed. It is declared that the applicant is appointed as regular appointee in grade 425-700(R) as Electrical Chargeman from 3rd April 1982 as per the letter dated 4th January, 1990 from the office of DRM(E)BRC to the Divisional Secretary, W.R.E.U.-BRC. So far the question of consequential

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benefits are concerned, the respondents may consider giving all the consequential benefits if no representation at present is pending on this point and if at all there is any representation, the same also should be disposed of, but the opportunity should be given to the applicant ^{of hearing} if there is still some representation pending against the claim of the applicant and then the decision be taken. If no representation is pending, then all consequential benefits should be given to the applicant without any delay in this matter. The question of consequential benefits of the applicant's claim be decided by the concerned respondents within four months from the receipt of the date of this judgement. Application is disposed of accordingly. No order as to costs.



(R.C. Bhatt)
Member (J)



(M.Y. Priolkar)
Member (A)