

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

(1)

O.A. NO. C.A. 20/96 in O.A. 270/88 with
T.A. NO. M.A. 165/96

DATE OF DECISION 12.3.96

Shri Suresh Ruplal Bhimebhai Petitioner
 & Others

Mr. M.M. Xavier Advocate for the Petitioner (s)

Versus

Shri M.Ravindra Respondent

General Manager
 Western Railway Churchgate, Bombay &
 Others

Advocate for the Respondent (s)

M.F.

CORAM

The Hon'ble Mr. N.B. Patel

Vice Chairman

The Hon'ble Mr. V.Radhakrishnan

Member (A)

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

No

1. Shri Suresh Ruplal Bhimabhai
2. Shri Ramesh Babulal Mavji
3. Shri Amritlal Bhagwan Tulsi

C/ o. All-Railway Quarter No: 142/B
Behind Loco-Running Shade
Botad.

4. Shri Bhikhubha Banesing
5. Shri Bharat Mohan
6. Shri Budha Laxman

C/ o. All - Bharat Mohan
'Sharam Niketan Society
Plot No.6, Behind
St. Xavier's School
Bhavnagar- 364 001.

Applicants

Advocate: Mr. M.M. Xavier

Versus

01 Shri M.Ravindra
General Manager
Western Railway
Churchgate Bombay- 400 020.

02 Shri V.Anand
Divisional Railway Manager
Western Railway
Bhavnagar Division
Bhavnagar Para- 364 003.

Contemnors.

Advocates

ORAL ORDER

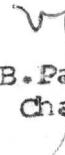
C.A. 20/96 in O.A. 270/88
With M.A. 165/96 Date 12/3/96

Per Hon'ble Mr. N.B. Patel

Vice Chairman

Mr. Xavier is not present. C.A. & M.A. are
both dismissed for default.


(V. Radhakrishnan)
Member (A)


(N.B. Patel)
Vice Chairman

PMR.

Date	Office Report	ORDER
6-6-96	Leave note filed by Mr. Xavier. Leave note to be filed and Adjourned to 27-6-96.	<i>l</i> (K. Ramamoorthy) Member (A)
		<i>MR</i> (A. P. Ravani) Chairman
	vtc	
27.6.96	At the written request of Mr. Xavier, learned counsel for the applicant, adjourned to 12.7.1996.	<i>l</i> (K. Ramamoorthy) Member (A)
		<i>MR</i> (A. P. Ravani) Chairman
	aab	
7-96	<u>M.A. 326/96</u> M.A. for restoration. In view of the circumstances stated in the M.A., C.A. is restored to file. Notice returnable on 9-8-96. M.A. stands disposed of accordingly.	<i>Ab</i> (V. Radhakrishnan) Member (A)
	*ssh	

Date	Office Report	ORDER
9.8.96	Mr. Vin files appearance. Adjourned to 22.8.1996 at the request of Mr. Vin. vtc.	 (V. Radhakrishnan) Member (A)

Date	Office Report	ORDER
22.8.96 22.		<p>Learned counsel for the respondents states that pursuant to the order passed by this Tribunal on April 29, 1993 in O.A. 270 of 1988 applicant has been reinstated in service.</p> <p>However, the grievance of the applicant is with regard to the rank given to him in seniority. In order to straighten ^{straighten} out the matter, it is directed that respondents shall furnish a copy of the seniority list to the applicant latest by September 3, 1996. Adjourned to September 4, 1996.</p>
		<p><i>MR</i></p> <p><i>R</i> (K. Ramamoorthy) Member (A)</p> <p><i>APR</i> (A. P. Ravani) Chairman</p>
4.9.96		<p>Sick note filed by Mr. Xavier.</p> <p>Adjourned to 16.9.1996.</p> <p><i>R</i> (K. Ramamoorthy) Member (A)</p>
16.9.96		<p>vtc.</p> <p>On account of sad demise of Shri H.L.Patel, Speaker, Gujarat Assembly, at the request from Bar, adjourned. <i>xx</i></p> <p>Call on 25.9.1996.</p> <p><i>R</i> (K. Ramamoorthy) Member (A)</p> <p>vtc.</p>

Date	Office Report	ORDER
25.9.96		Mr.R.M.Vin is not present. Adjourned to 8.10.96.
8.10.96		Adjourned to 17.10.96 at the joint request of both the learned advocates.
17.10.96		At the joint request of the learned advocates, adjourned to 31.10.1996.
31.10.96		Reply filed by Mr. Vin taken on record. Mr. Xavier may file rejoinder within two weeks. Adjourned to 27.11.1996.

Date	Office Report	ORDER
13.1.97		<p>Mr.Xavier submits that the respondents had since issued a memorandum dated 31.12.96 purporting to revise the seniority of the applicant in compliance with the orders of the Tribunal. He seeks time to verify the actual position. Adjourned to 29.1.1997.</p> <p style="text-align: right;">BV</p> <p style="text-align: right;">(V.Ramakrishnan) Vice Chairman</p>

Date	Office Report	ORDER
27.11.96	Asst. Manager and others adjourned to 11.12.96. Mr. G.L. Meena adjourned to 11.12.96. Mr. T. N. Bhat adjourned to 11.12.96. Mr. Xavier adjourned to 11.12.96. Mr. Vin adjourned to 11.12.96.	At the request of Mr. Vin, adjourned to 11.12.96.  (V. Radhakrishnan) Member (A)
11-12-96 (T.N.Bhat (J)) remained adjv		 The matter is hanging for quite some time. The respondents are directed to and given final chance to implement the judgment of this Tribunal dated 29-4-93 to give proper seniority to the applicant over and above the juniors recruited after his termination. In case, this exercise is not completed by the next four weeks, Mr. G.L. Meena, Sr. Divisional Personnel Officer will personally remain present before this Tribunal to explain why this could not be done. Call on 13-1-97.  (V. Radhakrishnan) Member (A)
29.1.97	ssh*	Mr. Vin produces copy of letter dated 31.12.96 which is taken on record. Adjourned to 26.2.97 at the request of Mr. Xavier.  (T.N. Bhat) Member (J)  (V. Radhakrishnan) Member (A)
	vtc.	

Date	Office Report	ORDER
9.4.97	Mr. Vin prays for time to furnish the clarification directed to be furnished by the order dated 26.2.97. Adjourned to 7.5.97.	<p><i>Mr. Vin</i></p> <p>(T.N. Bhat) Member (J)</p> <p>(V.Ramakrishnan) Vice Chairman</p>
7.5.97	Heard both sides. Oral order dictated in open Court.	<p><i>Mr. Vin</i></p> <p>(T.N. Bhat) Member (J)</p> <p>(V.Ramakrishnan) Vice Chairman</p>

Date	Office Report	ORDER
26.2.97		<p>We have heard both sides. We find from the memorandum dated 31.12.96 that the Railways have made a statement that in pursuance of the Tribunal's direction dated 29.4.93 "six complainant hereby assigned seniority before 198 persons listed at Annexure A in O.A.270/88". It is also seen at Annexure A-7 indicating the name of the 198 persons who are engaged after the termination of the applicant against which O.A.270/88 was filed. Mr. Xavier for the complainants states that the complainants had been engaged in the Mechanical group of Bhavnagar division and he did not nowhere in 198 people referred to or also serving in the same group. He further contends that the complainants had been assigned seniority over the 198 people should imply they are in the same seniority list. The respondents should clarify the actual position in this regard on the next date and also indicate clearly the seniority group which have been assigned vis-a-vis 198 persons referred.</p> <p>Adjourned to 9.4.1997.</p> <p><i>by</i> (T.N. Bhat) Member (J)</p> <p><i>DR</i> (V.Ramakrishnan) Vice Chairman</p> <p>vtc.</p>

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

C.A.No. 20 OF 1996

in

O.A.NO. 270/1988

~~ExxxNox~~DATE OF DECISION 7.5.1997Suresh Ruplal Bhimabhai & Ors. PetitionersMr. M.M. Xavier, Advocate for the Petitioner [s]
VersusUnion of India & Ors. RespondentsMr. R.M. Vin, Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V. Ramakrishnan, Vice Chairman.

The Hon'ble Mr. T.N. Bhat, Judicial Member.

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ? *u*
2. To be referred to the Reporter or not *u*
3. Whether their Lerdships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ? *u*

1. Suresh Ruplal Bhimabhai,
2. Ramesh Babulal Mavji,
3. Amritlal Bhagwan Tulsi,
Resi. address:
Railway Quarter No. 142/B
Behind Loc Running Shade,
Botad.

4. Bhikhubha Banesing
5. Sharat Mohan
6. Budha Laxman.
Resi. address:
C/o. Bharat Mohan,
'Sharam Niketan Society,
Plot No.6, Behind
St. Xavier's School,
Bhavnagar.

.... Applicants.

(Advocate: Mr. M.M. Xavier)

versus.

1. Shri M. Ravindra
General Manager,
Western Railway,
Churchgate, Bombay-20.

2. Shri V. Anand,
Divisional Railway Manager,
Western Railway,
Bhavnagar Division,
Bhavnagar Para - 364 003.

.... Respondents.

(Advocate: Mr. R.M. Vin)

ORAL ORDER

C.A.No. 20 OF 1996

in

O.A.No. 270/1988

Date: 7.5.1997.

Per: Hon'ble Mr. V. Ramkrishnan, Vice Chairman.

Heard both sides. The applicants had approached the Tribunal earlier in O.A.270/88 seeking reinstatement as casual labourer and quashing of the order of their terminating the services and also seniority over people who were engaged subsequent

to their initial engagement. The Tribunal was held that 198 people who are juniors to the applicants were engaged while the applicants services are terminated. The Tribunal disposed of this O.A. by its order dated 29.4.93, which reads as follows:

"Application is partly allowed. The oral termination of the applicants dated 20th May 1987 is held illegal and the same is quashed. The respondent, are directed to re-engage the applicants within one month from the receipt of the order of this Tribunal without any backwages. The respondents are directed to give the seniority to the applicants prior to the date of the engagement of the juniors to the applicants and their names may be accordingly shown in the seniority list. Application is disposed of with no order as to costs."

2. The present Contempt petition has been filed with the allegation that this order has not been fully complied with by the Railway Administration inasmuch as the applicants even though they had been re-engaged had not been granted their due position in the seniority list..

3. As the only issue involved is about seniority of the applicants vis-a-vis people who were stated to be their juniors, we had asked the Railway Department to give the factual position. We find that the Railways had issued an order dated 29.4.96 as at Annexure R-13, where the seniority of the NG Staff - Mechanical Department was given. Subsequently an order dated 31.12.96 has been issued which gives the date of

16

initial engagement of the applicants as also the dates of their regularisation and proceeds further to state that they will be given seniority prior to the date of engagement of their juniors to the applicants who were listed in Annexure A-7 of the O.A. 270/88. When the initial seniority list in the Mechanical wing was given, Mr. Xavier for the complainants contended that the applicants have been engaged in the Mechanical wing in the Bhavnagar Division and while they have been given the seniority in that wing as referred to earlier, there is no mention about the seniority of the 198 people, who are listed in Annexure A-7 of the O.A. 270/88. The Railways now submits that they maintain separate seniority list for different departments, such as Mechanical group, Civil Engineering group etc. and the applicants were initially engaged as casual labourer under the Mechanical group. ^{and} In compliance with the order of the Tribunal's, they have been given reinstatement in the same group. In the additional reply filed by them, and in para-8 of the same, they stated that after much investigation into the list of 198 persons, the Railways could trace out only 9 persons whose names and details are given in Annexure R-5. We find from the Annexure R-5 that these 9 persons are working under the permanent way Inspector (C). However, we also find that while the applicants were engaged on various dates in May 1979, September 1978, February 1980, June 1980 etc. in the list of 9 people given at Ann. R-5, the date of initial engagement of at least 5 of them are earlier

to the date of engagement of the applicants.

Mr. Vin clarifies that seniority is determined not on the basis of the date of engagement but also on the basis of the total number of days worked.

4. We take note of the fact that the Railways maintained separate seniority list for the different departments and this position was not highlighted before the Tribunal while passing the order in O.A. 270/88. A reference was made to the same in the subsequent R.A. The applicants were initially engaged in the Mechanical Wing as casual labourers and we cannot fault the respondents for reengaging them in the same group. Keeping in view this fact and also the fact that despite the filing of repeated reply statement, the actual position of 198 people can not really be ascertained, we hold that the order dated 29.4.93 in O.A. 270/88, so far as pertains to seniority should be understood as follows:

The applicants shall be regularised keeping in view the date of initial engagement and also such other parameters which are normally followed by the Railways for determining the seniority of casual labourers.

If any person in the mechanical wing, who is actually junior to the applicants is given regularisation from an earlier date, the applicants shall also be regularised from such earlier date.

Mr. Xavier submits that according to the applicants' information, there are some people who are

serving in the Mechanical wing, namely; Arvind Purshottam Mehta, Sr.No. 95, Narendrakumar Lalbhai Naik, Sr.No. 128, in Annexure A-7 of the O.A.270/88 who are actually juniors to the applicants. In view of this submissions the Railways shall investigate the position of these two persons vis-a-vis the applicant in the Mechanical wing and shall take appropriate steps in terms of the above directions.

5. With the above directions, the Contempt petition is disposed of and the alleged contemners are discharged.


(T.N. Bhat)
Member (J)


(V. Ramakrishnan)
Vice Chairman

ssh./vtc.