

(79)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 280 of 1989.
~~XXXXXX~~

DATE OF DECISION 15th November, 1994.

Shri Earnest Samuel and ors. Petitioner

Shri B.B.Gogia Advocate for the Petitioner(s)

Versus

Union of India and ors. Respondent

Shri B.R.Kyada. Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. V.Radhakrishnan : Member (A)

The Hon'ble ~~Mr.~~ Dr.R.K.Saxena : 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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7. D.D.Rathod,
Ticket Travelling Inspector,
C/o.Station Supdt.,
Mehsana.
8. B.B.Ravi,
Ticket Travelling Inspector,
C/o.Station Supdt.,
Mehsana.
9. R.D.Patel,
Ticket Travelling Inspector.,
Add.C/o.Station Supdt.,
Mehsana.
10. R.M.Verma,
Ticket Travelling Inspector,
Add. C/o.Station Supdt.,
Mehsana.
11. V.H.Shejwalkar,
Ticket Travelling Inspector,
Add.C/o.Station Supdt.,
Meter Gauge,
Ahmedabad.
12. K.K.Vyas,
Ticket Travelling Inspector,
Add. C/o.Station Supdt.,
Rajkot.
13. S.S.Singhal,
Ticket Travelling Inspector,
Add.C/o.Station Supdt.,
Mehsana.
14. Thanvardas,
Ticket Travelling Inspector,
Add.C/o.Station Supdt.,
Kalol.

...Respondents.

(Advocate : Shri B.R.Kyada)

ORAL JUDGMENT

O.A.NO. 280 OF 1989.

Date : 15/11/1994

Per : Hon'ble Dr.R.K.Saxena : Member (J)

This application was filed by Shri Earnest Samuel, Jatashanker S.Dave, H.H.Bhayani, R.M.Trivedi, on the grounds that they were not promoted to the posts of Chief Ticket Inspectors, The admitted facts of

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1. Shri Earnest Samuel,
Occ. H.T.T.E., Adult,
Add. 13, Green Fountain Society,
Khokhra (Maninagar - East).
2. Jatashanker, S. Dave,
Occ. H.T.T.E., Mahesana,
Add. 15, Shiv Co-Operative Housing
Society, Part I, Ram Baug,
T.B. Hospital Road,
Bhamaria Nala,
Mahesana.
3. Shri H.H. Bhayani,
Occ. H.T.T.E., Rajkot.
'Hem Kunj', 16, Junction Plot,
Rajkot.
4. Shri R.M. Trivedi,
Occ. Retired T.T.I., Rajkot.
Add. 'Jatin', 7, Gaikwadi Plot,
Rajkot.

...Applicants.

(Advocate : Shri B.B. Gogia)

Versus

1. Union of India,
Owning and representing
Western Railway,
Through : - The General Manager,
Western Railway,
Churchgate,
Bombay.
2. Divisional Railway Manager,
Western Railway,
Kothi Compound,
Rajkot.
3. B.K. Makwana,
Ticket Travelling Inspector,
Add. C/o. Station Superintendent,
Meter Gauge,
Ahmedabad.
4. N.G. Jubily,
Ticket Travelling Inspector,
Add. C/o. Station Supdt.,
Ahmedabad.
5. V.A. Parmar,
Ticket Travelling Inspector,
Add. C/o. Station Supdt.,
Surendranagar.
6. P.R. Chavda,
Ticket Travelling Inspector,
Add. C/o. Station Supdt.,
Jamnagar.

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parties ^{are 2} ~~is~~ that the applicants had not completed two years of service in their respective lower grades ~~ref~~ ² ~~Rs.1600-2660~~, because there was a stay order from the Bombay High Court. The contention of Shri B.B.Gogia ² ~~as~~ the learned counsel for the applicants is that the Railway Board had issued a circular dated 10.1.1991 consolidating all the previous circulars on different points and para-5.6. of this circular ^{gives} ~~is~~ discretion to the Divisional Railway Manager to consider such cases in which promotions could not be made on account of stay order of injunction of the Court of Law and the employee had become due for promotion to the higher grade but could not be promoted on account of non-fulfilment of two years service in the immediate lower grade. This para further deals with granting relaxation in such cases with the personal approval of the Divisional Railway Manager in the case of divisionally controlled posts. The learned counsel for the applicants admitted that no representation could be made to the authorities concerned in the light of the circular dated 10.1.1991. It is also contended by him that the para 5.6. of circular dated 10.1.1991, was in existence of previous circulars ~~but~~ he could not point out a particular circular thereon. He however,

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emphasized that the principle of equity was introduced by para 5.6. of the above mentioned circular. The learned counsel for the applicants wants to withdraw the case if the representation made in this behalf by the applicants is considered by the concerned authorities in the light ^{of equitable principle} of para 5.6. of the circular dated 10.1.1991 or any other circular if it was in existence prior to this circular. The present application is argued to be treated as representation along with additional representation, if any.

We allow the withdrawal of the case with a direction that the representation so made by the applicants may be disposed of within a period of three months from the date of receipt of the representation, and the result will be communicated within a fortnight thereafter. The applicants are permitted to approach this Tribunal, if they still feel aggrieved.

The application stands disposed of accordingly.

No order as to costs.


(Dr. R. K. Saxena)
Member (J)


(V. Radhakrishnan)
Member (A)

ait.

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C.A./25/91

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O.A.280/90


Date


Office Report

O R D E R

18.2.1992

Mr. Gogia learned advocate for the applicant is present. The matter will be taken up for admission on getting reply from the respondents as to whether representation of the applicant has been considered. Mr. Kyada learned advocate for the respondents submits that he has ^{no} instructions on this point but he would obtain instructions. Hence the matter is adjourned to next division bench.


(R.C. Bhatt)
Member (J)

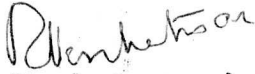


(M.Y. Priolkar)
Member (A)

C.A./25/91

in

O.A./280/90



Date	Office Report	O R D E R
24.03.1992.	<p>Mr.B.B.Gogia, learned advocate for the petitioner does not press this C.A. Mr.B.R.Kyada, learned advocate for the respondents is present. The petition is therefore, dismissed for want of prosecution.</p> <div data-bbox="724 692 1043 828"> (R.Venkatesan) Member (A)</div> <div data-bbox="1225 705 1481 828"> (R.C.Bhatt) Member (J)</div>	AIT