

**CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH**

**C.P. 21/2000 in O.A. 207/89**

**Date of Decision: 20-4-2001.**

Mr. Bayichu Badia : Applicant(s)

Mr. Y.V. Shah : Advocate for the Applicant(s)

**Versus**

Union of India & Ors. : Respondents (s)

Mr. N.S. Shevde : Advocate for the Respondent(s)

**CORAM:**

**HON'BLE SHRI V.RAMAKRISHNAN : VICE CHAIRMAN**

**HON'BLE SHRI A.S.SANGHAVI : MEMBER (J)**

**JUDGMENT**

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not? <sup>N</sup>
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?

**:2:**

Shri Bayichu Badia,  
C/o Permanent Way Inspector (C),  
Western Railway,  
Lalpur, Jamnagar.

Applicant

**Advocate: Mr. Y.V. Shah**

**Versus**

1. Union of India,  
Through the General Manager  
Western Railway  
Churchgate, Bombay-20.
2. Divisional Railway Manager (E)  
Western Railway, Rajkot.
3. Permanent Way Inspector (C)  
Western Railway, Rajkot.
4. Divisional Railway Manager (E)  
Western Railway, Bhavnagar.

Respondents

**Advocate: Mr. N.S. Shevde**

**ORAL ORDER**  
**C.P. 21/2000 in O.A. 207/89**

**Date: 20.4.2001**

**Per: Hon'ble Mr. V. Ramakrishnan : Vice Chairman**

We have heard Mr. Y.V.Shah for the applicant and MR. Shevde for the respondents.

2. The complainant has alleged disobedience of the Tribunal's direction dtd. 2.4.98 while disposing of the O.A. 207/89. The complainant was a Casual Labour and he *✓*

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had challenged the termination of his service. The Tribunal after detailed consideration disposed of the O.A. with the following directions:

In the facts and circumstances, we hold that the applicant is entitled to regularisation in service from the date on which his juniors were absorbed (Sl. No. 103 onwards) in the seniority list enclosed with the letter dated 31.10.91 (Annexure A-6). It is further directed that the applicant be reinstated treating to be in service and may be absorbed in regular employment as Class IV employee after screening in accordance with the rules. The applicant will be paid a lumpsum of Rs. 15,000/- towards compensation in lieu of backwages. The Respondents are directed to implement the order within a period of three months from the date of receipt of the order. There will be no order as to costs.

3. It is clear from this that there were three directions namely;

- (1) The applicant should be reinstated treating him to be in service,
- (2) He may be absorbed in regular employment as Class IV employee after screening in accordance with the rules and;
- (3) He will be paid lumpsum of Rs. 15,000/- towards compensation in lieu of back wages.

4. The Railway Administration had taken up the matter on appeal to the High Court of Gujarat and the same was

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dismissed on 2.9.99. The respondents have taken the line that they issued a letter in November 2000, asking the applicant to report for duty within 10 days. The applicant was sent for medical examination where he was found to be unfit and they have not taken action to take him back in service. Mr. Shevde says that so far as the decision for backwages is concerned, the pay order has been issued dtd. 19.4.2001 and that the complainant will be receiving it immediately.

5. We enquired of Mr. Shevde as to why the applicant was not reinstated even after the High Court has dismissed the SCA in ~~view~~ of the clear direction of the Tribunal. Mr. Shevde refers to some circular of Railway Board which says that before reengagement, the Casual Labour has to be subjected to medical examination. The Tribunal's directions are quite clear. It directs reinstatement treating the complainant to be in service. As per the Tribunal's direction the question of screening in accordance with the rules which would include the medical examination will arise at the time of assessment for regular employment. Whatever departmental instructions exist~~s~~ they cannot over rule the direction of the Tribunal. As such, it is not open to the Railway Administration to refuse to reinstate the applicant even on a temporary basis. It is of course open to them to subject him to proper screening a medical examination for the purpose of regular employment.

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The action of the Railway Administration in not reinstating him despite clear direction of the Tribunal and after the appeal to the High Court has been ~~dismissed~~ done as early in September 1999 amounts to non implementation of Tribunal's direction. In the circumstances the applicant shall be taken to be reinstated with effect from 1.1.2000 which is about four months from the date on which the Hon'ble High Court had dismissed the appeal and he shall be paid wages on that basis. As regards regular absorption, it is open to the Railways <sup>to</sup> ~~on~~ subject <sup>be</sup> made to screening and medical examination in accordance with the rules and the complainant is aggrieved with the decision, it is open to him to take proper steps. We record that the pay order ~~for~~ Rs. 15,000/- has already been dispatched. Mr. Shah submits that if the Tribunal's directions are not complied with the applicant may be given opportunity to take appropriate steps by way of contempt petition or otherwise. We grant such liberty.

6. The above direction to treat the applicant as having ~~been~~ reinstated with effect from 1.1.2000 and to be paid salary and allowance from that date shall be complied within three months from the date of receipt of copy of this order.

7. C.P. is disposed of. No costs.

*A.S. Sanghavi*  
(A.S. Sanghavi)  
Member (J)  
Sm

*V.Ramakrishnan*  
(V. Ramakrishnan)  
Vice Chairman