

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

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O.A. No. 92/89
~~Ex-Ax No:~~

DATE OF DECISION 01/9/1993

Shri Sureshchandra Haribhai Parmar Petitioner

Mr. D. P. Padhy Advocate for the Petitioner(s)

Versus

Union of India & Anr. Respondent

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

CORAM :

The Hon'ble Mr. N. B. Patel : Vice Chairman

The Hon'ble Mr. V. Radhakrishnan : Administrative Member

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 ?

16.

(1)

Shri Sureshchandra Haribhai Parmar,
Quarter No.725/P, Sabarmati New Railway
Colony, Near Kali Road, Sabarmati.

: Applicant

(Advocate: Mr.D.P.Padhy)

Versus

Union of India
Through:

1. The General Manager,
Western Railway,
Churchgate, Bombay-400 020.

2. The Divisional Rail Manager,
Western Railway, Rajkot Division,
Kothi Compound, Rajkot-360 001.

: Respondents

(Advocate: Mr.B.R.Kyada)

O R A L J U D G M E N T

O.A.No.92/89

Date:01/9/1993

Per: Hon'ble Mr. N.B.Patel

: Vice Chairman

By filing this application on 16.2.1989, the applicant firstly claims that the respondents be directed to pay officiating allowance to him with effect from 1.1.1978 i.e. the date from which his junior, one Shri Dilawarsingh, was paid the same for ^{semi-} working on the post of Fitter i.e. a skilled grade post. The second relief claimed by the applicant is for a direction to the respondents to promote him to the post of Fitter Grade II (Rs.1200-1800) with effect from 2.1.1987 when his junior Shri Dilawarsingh was promoted to the said post.

2. There is no controversy about the fact that the applicant joined the Railway service as an unskilled employee with effect from 7.4.1967 whereas

(C)

Shri Dilawarsingh joined service, also ^{as} an unskilled employee, with effect from 8.7.1967 and, therefore, in the base cadre of Khalasi, the applicant was senior to Shri Dilawarsingh. The applicant's case is that, he passed a test for promotion to semi-skilled grade in 1971 and perhaps Shri Dilawarsingh also passed the said test in 1971 and, therefore, there was no reason for the supersession by Shri Dilawarsingh to the semi-skilled grade and yet Shri Dilawarsingh was promoted to semi-skilled grade with effect from 1.1.1978 while he was promoted to the same grade with effect from 1.8.1978. It appears that the applicant was promoted to skilled grade w.e.f. 18.11.1987 while Shri Dilawarsingh was promoted to the said grade w.e.f. 5.11.1981.

3. In other words, the applicant states ^{that} though both he and Shri Dilawarsingh had passed the required test for promotion to semi-skilled grade in 1971, Shri Dilawarsingh was promoted to semi-skilled grade on 1.1.1978, whereas he was promoted to that grade on 1.8.1978 and this supersession ^{of his} by Shri Dilawarsingh in the matter of promotion to semi-skilled grade was illegal. The respondents have not clearly admitted that the applicant had passed the necessary test for promotion to semi-skilled grade in 1971. They have indirectly suggested that the applicant had passed the test much later than 1971. However, for the present, we would proceed on the basis that the applicant had passed the test in 1971 and his junior Shri Dilawarsingh had also passed the said test in 1971. Normally, therefore, the applicant should have

been promoted to semi-skilled grade earlier than Shri Dilawarsingh, but, in fact, Shri Dilawarsingh was promoted to that grade earlier (on 1.1.1978) and the applicant was promoted thereto on 1.8.1978.

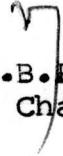
It is this supersession of his by Shri Dilawarsingh that has aggrieved the applicant and, it is, therefore, that he has moved the present application, as stated above, as late as in 1981.

4. One of the contentions on which the application is resisted is that, the claim made by the applicant is too belated to be entertained by the Tribunal. On behalf of the applicant, it was strenuously urged by his learned counsel Mr.D.P.Padhye that the applicant had come to know about his illegal supersession by Shri Dilawarsingh in 1978 only some time prior to the filing of this application in 1989. It is not possible to accept this plea of ignorance advanced by the applicant to justify his highly belated claim. It was conceded at the bar that in 1978, the applicant and Shri Dilawarsingh were both working at Sabarmati and it is, therefore, highly unlikely that the applicant would not come to know about his supersession in 1978 itself, or, in any event, within a short time after his supersession. In fact, the applicant's representation (Annexure A-12) which is dated 1.3.1987 shows that atleast in 1987 the applicant had come to know about the alleged injustice which had occurred to him. Even thereafter he has filed the present application in 1989. We find that the explanation of ignorance put forward by the applicant is not acceptable and the claim made by the applicant is hopelessly belated and we are not

prepared to set right the alleged injustice meted out to the applicant as late as in 1993.

5. We, therefore, dismiss the application without, however, any order as to costs.


(V. Radhakrishnan)
Member (A)


(N.B. Patel)
Vice Chairman