

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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AHMEDABAD BENCH

O.A. No. 523/89, O A 257/90 and  
 T.A. No. MA 234/90

DATE OF DECISION 18-7-1990

Association of Railway and Post Petitioner Applicants  
employees

Mr P.H. Pathak Advocate for the Petitioner(s)

Versus

Union of India and others Respondent s

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

## CORAM :

The Hon'ble Mr. M.M. SINGH, Adv. Member

The Hon'ble Mr. N.R. Chaudhary, Jdt. Member

O.A.523/89

with

O.A.257/90

with

M.A.234/90

CORAM:

Hon'ble Shri M.M. Singh, Admv. Member

Hon'ble Shri N.R.Chandran, Judl. Member

Dated: 18-7-1990

J U D G M E N T

Per: Hon'ble Shri N.R. Chandran, Judicial Member.

Both these matters raise an identical question. The applicant in O.A.523/1989 viz., the Association for Railway and Post employees, through its treasurer R.C. Pathak, on behalf of 31 members mentioned in the annexure, challenging the termination notice dated 31-8-1989 and claiming the relief of absorption on the basis of the decision of the Supreme Court in Indar Pal Yadav's case. This Tribunal had granted stay of the order of termination after hearing both the parties on 23-3-1990 for a period of two months. We find

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from the records that the stay order has not been extended. In the meanwhile, one of the members of the applicant-association viz., Shantilal Ravji was issued a notice of termination on 10-5-1990. This is being challenged in O.A.257/1990. In this case also, this Tribunal had granted stay on 27-6-1990 directing the respondents not to terminate the said applicant till further orders.

We have heard the learned counsel for the applicant as well as for the respondents. The main relief sought for at the hands of this Tribunal is for absorption on the ground that the members of the applicant-association in OA 523/1989 had worked for a long time and therefore they should be absorbed in terms of the scheme framed by the Railway Board consequent upon the decision of the Supreme Court in

Inder Pal Yadav's case. They also incidentally challenged the order of termination on the ground that the same has been passed in violation of Section 25F of the Industrial Disputes Act. In view of these circumstances, we are of the view that once the Supreme Court had passed an order on the basis of which a scheme had been framed by the Railway Board, the respondents are duty bound to consider the cases of the members of the applicant-association. We also notice that the matter is pending before the Conciliation Officer where the union had raised the dispute. Even though conciliation proceedings are pending, in view of the decision of the Supreme Court and the scheme framed by the Railway Board pursuant thereto, the cases of the members of the applicant-association in OA 523/89 have to be considered for absorption. Accordingly,

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we direct each member of the association (applicant) in OA 523/89 to submit a representation to the Deputy Chief Engineer, Western Railway Ahmedabad and to the Executive Engineer, Western Railway, and to the Dy. Railway Manager, Rajkot Jamnagar/ claiming absorption on th basis of the judgement of the Supreme Court in Inder Pal Yadav's case and on the basis of the scheme prepared by the Railway Board. Each applicant should enclose his service details or such other material that are available with him to <sup>ESTABLISH</sup> ~~justify~~ their service in the Railways. They should also enclose a copy of this order. The applicants may also urge any other point relevant to the question of absorption in the representation. The representation as mentioned above should be submitted within a period of two months from to-day. As soon as the representation is received, the decision should be taken on the question of



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absorption of each of the applicant, within a period of two months from the date of receipt of such representation. If the members of the applicant-association are eligible to be absorbed on the basis of the decision of the Supreme Court and the scheme framed by the Railway Board, they should be absorbed accordingly.

If, on the other hand, absorption of the members of the applicant-association is not accepted, then the competent authority should pass a speaking order and communicate the same to each of the member of the applicant-association within a period of two months as mentioned above. It is open to the applicant-association to approach this Tribunal against the said order if they feel aggrieved and challenge the same. In that event, it is also open to them to challenge the order of termination as being contrary to the provisions

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of Section 25F of the Industrial Dispute Act.

Till the representations are finally disposed of and communicated to the members of the applicant-association, the notice of termination dated 31-8-1989 referred to in Annexure A-1 in OA 523 of 1989 and the Notice dated 10-5-1990 referred to as Annexure A-1 in OA 257/1990 are hereby stayed. OA 523/1989 and OA 257/1990 are disposed of accordingly. MA 234/1990 filed by the respondent-Railways for vacating the stay is dismissed as having become infructuous.

Sd/-  
(N.R.Chandran)  
Judicial Member

Sd/  
( M. M. Singh )  
Administrative Member