

IN THE CENTRAL ADMINISTRATIVE TRIAUNAL  
AHMEDABAD BENCH

(P)

O.A. No. 333 OF 1990  
~~TAX NO.~~ with  
M.A.No. 190 OF 1993

DATE OF DECISION 5.5.1993.

S. Natesan Iyer, Petitioner

Applicant-in-person. Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

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

CORAM :

The Hon'ble Mr. R.C.Bhatt, Judicial Member.

The Hon'ble Mr. M.R. Kolhatkar, Admn. 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 ?

(8)

S. Natesan Iyer,  
Assistant Electrical Foreman  
Power Supply Installation  
Traction Distribution,  
Western Railway, Mehmabad.  
Address: Block No. M-1,  
Room No. 8  
Prashant Appartment,  
Opp: S.T. Nagar,  
Kapadwanj Road,  
Nadiad.

..... Applicant.

Versus.

1. Union of India,  
owning, representing and  
administering through its  
General Manager,  
Headquarter Office,  
Western Railway,  
Chuchgate, Bombay.
2. Divisional Railway Manager  
Traction Distribution - Est:  
Western Railway, Pratapnagar,  
Vadodara.

..... Respondents.

(Advocate: Mr. N.S. Shevde)

ORAL ORDER

O.A.No. 333 OF 1990

with

M.A.No. 190 OF 1993

Date: 5.5.1993.

Per: Hon'ble Mr. M.R. Kolhatkar, Admn. Member.

Heard applicant-in-person and Mr. N.S. Shevde,  
learned advocate for the respondents.

2. The applicant has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985. The main relief sought by the applicant is to declare the applicant deemed to have been promoted in different grades from the date his next junior was promoted and to quash the seniority list No. E/EL/TRD/1020/10/4 dated 4th May, 1990 in the scale of Rs.1600-2600(RP) at Annexure-I.

3. During the hearing, the applicant drew our attention to the fact that in pursuance of this Tribunal's earlier judgment dated 21.2.92 in case O.A.238/88, which is between the same parties, the respondents have issued order No. E/TRD/1030/10/L dated 22nd January, 1993 (P.91) which has the effect of modifying the impugned seniority list and placing the applicant below Shri Prabhusing at Sr.No.7 and above Shri Shanthakumar at Sr.No.8. It is not in dispute that the said seniority is accepted by the Applicant. The short point which was raised before us by the Applicant was that in terms of Railway Board's letter No. PC III/91/CRC/1 dated 27th January, 1993 circulated under Divisional Office Rajkot's circular dated 15.2.1993 on the subject of "restructuring of certain Group C & D cadres" vide Annexure A-16, the applicant is entitled to the higher post of TFO in the scale of Rs. 2000-3200 (RP) with effect from 1st March, 1993. We have gone through the circular produced by Applicant whose authenticity has not been disputed by the respondents. The circular in para 4 states that if an individual Railway servant become due for promotion to a post classified as a selection post, the existing selection procedure will stand modified in such a case to the extent that the selection will be based only on scrutiny of service records and confidential reports without holding any written and/or viva-voce test. It has further been clarified that this modified selection

procedure is treated as a one-time exception and that the vacancies existing on 1.3.1993 except direct ~~xxxxxx~~ recruitment quota and those arising on that date from this cadre restructuring including chain/resultant vacancies should be filled in the particular sequence indicated in para 4.1. The Applicant's prayer is that he should be given the benefit of the circular and the salary of the higher post in the said scale Rs. 2000-3200(RP) with effect from 1.3.1993 and that he waives payment of arrears of the higher salary scale. The counsel for the Respondents had pointed out that this circular relating to restructuring pertains to certain grade C & D cadre and that it will have to be examined whether it applies to the post of TFO question. The applicant avers that the process of ~~satisfying~~ <sup>Speci</sup> and notifying the post\$ in cadre C is under way.

4. We note that the circular relied upon by the applicant is dated 15.2.93 i.e., issued, well after filing of the O.A by the Applicant viz., 17th July, 1990. However, in the interest of proper adjudication, we take ~~allow~~ <sup>account</sup> of the same and take on record the assurance of the counsel for the respondents that if the circular is applicable to the applicant's post in question, the question of extending benefit of the circular to the applicant from the due date would be considered as per rules. Hence we pass the following order.

O R D E R

The Respondents to consider the case of the

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applicant for appointment to the post of TFO in the scale Rs. 2000-3200(RP) without selection in terms of Railway Board's circular dated 27th January, 1993 and particularly in terms of para 4 thereof and if the applicant is found to <sup>be</sup> covered by the terms of the circular, to give him the scale of the post i.e., Rs.2000-3200(RP) with effect from 1.3.1993 ~~without~~ ~~awards~~.

So far as the seniority of the applicant in the higher post of TFO in the scale Rs. 2000-3200 is concerned, the seniority list is not before us, but the Respondents to consider the claim of the applicant to the seniority in the higher post as per rules and in particular his claim that he should be placed above Shri Shanthakumar, who is officiating in the higher scale with effect from 19.5.1989. No order as to costs.

M.R.Kolhatkar

(M.R. Kolhatkar)  
Member (A)

R.C.Bhatt

(R.C.Bhatt)  
Member (J)

vtc.