

(4)

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
AHMEDABAD BENCH

**O.A. NO. 3/90**

~~TEKNOX~~

**DATE OF DECISION** 09/11/1995

Shri Yasvant L

Petitioner

Shri K.C.Bhatt

Advocate for the Petitioner (s)

Versus

Union of India & Anr.

Respondent

Mr.N.S.Shevde

Advocate for the Respondent (s)

**CORAM**

The Hon'ble Mr. N.B.Patel

: Vice Chairman

The Hon'ble Mr. V.Radhakrishnan

: Member (A)

**JUDGMENT**

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
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 ?

No

: 2 :

Yasvant L.  
Residing at 135, Char Rasta,  
Maninagar, Ahmedabad.

: Applicant

(Advocate: Mr.K.C.Bhatt)

Versus

1. Union of India.  
Through:  
The General Manager,  
Western Railway, Churchgate,  
Bombay.

2. D.M.E. (E)  
B.B.C. (W.R.)  
Divisional Office,  
Pratapnagar,  
Baroda.

: Respondents

(Advocate: Mr.N.S.Shevde)

: J U D G M E N T :

O.A.3/90

Date: 09.11.1995

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

: Vice Chairman

The applicant who was promoted to the post of Machineman Grade III on 19.3.1984 and thereafter promoted to the post of Machineman Grade II from 20.10.1988 seeks a declaration that he should be deemed to have been promoted to the post of Machineman Grade III w.e.f. 30.4.1975 and he also claims consequential benefits. The applicant has claimed this relief on the basis that his immediate junior, one Shri Ramjibhai C. was promoted to the post of Machineman Grade III w.e.f. 30.4.1975. In the application, the applicant has made certain other averments about the illegality in bringing to Machine Shop Division certain persons from Fitting Shop Division and has alleged that, because of this illegal induction of Fitter Shop Division persons to Machine Shop Division, the chances of promotion of the applicant and others like him are adversely affected. However, we are not concerned with this aspect of the case, particularly as no details are given about the

alleged illegal induction of the Fitter Shop Division persons into Machine Shop Division. The only case to be considered is whether the applicant is entitled to the relief claimed by him, namely, that he should be deemed to have been promoted to Machineman Grade III w.e.f. 30.4.75. As already stated, this relief is claimed on the basis that one Shri Ramjibhai C. was junior to the applicant and he was promoted to the post of Machineman Grade III on 30.4.75 and, therefore, that is the date on which the applicant should have been promoted to that post and he should now be given deemed promotion w.e.f. that date.

2. The respondents resist the application, inter alia, on the ground that the very basis of the case of the applicant, namely, that Shri Ramjibhai C was junior to the applicant is non-existent and, therefore, the applicant cannot claim deemed promotion from the date from which Shri Ramjibhai C was promoted to the post of Machineman Grade III.

3. The respondents have produced at Annexure R-6 a gradation list of the cadre of Machinemen Grade III (scale Rs.260-400) and this list clearly shows the name of Shri Ramjibhai C at Sr.No.25 whereas the name of the applicant occurs at Sr.No.35. It may be noted that the forwarding letter to this list shows that the list was required to be circulated among all the employees and they were required to make representations if they had any grievance about their placement on the seniority list. There is nothing to show that the applicant had ever made any grievance about his placement at Sr.No.35 or the placement of Shri Ramjibhai C at Sr.No.25 on the gradation list of Machinemen Grade III. It is only

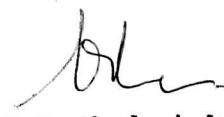
: 4 :

in 1990 that the applicant has come up with the case that Shri Ramjibhai C was junior to him and he was wrongly shown at Sr.No.35. According to the applicant, he should have been placed between Shri Anandrao S. (Sr.No.24) and Shri Ramjibhai C (Sr.No.25). The applicant had advanced this case only on the ground that, in Column No.7 of the seniority list, the date of appointment of Shri Ramjibhai C is shown as 8.7.1959 whereas the date of the appointment of the applicant is shown as 8.7.1958. There is no dispute about the fact that Column No.7 mentions the date of the initial entry of all the employees in the service. It is true that the date of appointment of the applicant is shown as 8.7.1958 whereas the date of Shri Ramjibhai C is shown as 8.7.1959. We are, however, not concerned with the seniority of the applicant vis-a-vis that of Shri Ramjibhai C in the cadre lower than the cadre of Machineman Grade III for which the gradation list is to be found at Annexure R-6. The applicant had never made any grievance about his ranking at Sr.No.35 i.e. 10 numbers below the number given to Shri Ramjibhai C even though the list was presumably circulated as far back in 1986. It also deserves to be noted that the applicant was promoted to Machineman Grade II w.e.f. 20.10.1988 and even at that stage he had not raised any dispute about his supersession by Shri Ramjibhai C. It is not possible to grant the relief claimed by the applicant unless the seniority list of Machineman Grade III, which was circulated as far as back as in 1986, is now disturbed. This is a stale issue because, during the intervening period, Shri Ramjibhai C has earned two promotions, namely, promotion to the post of Machineman Grade II to the post of Machineman Grade I and the applicant has also earned two promotions by now.

though, of course, on dates later than the dates on which Shri Ramjibhai C got the said promotions. Therefore, apart from everything we find that the case brought by the applicant cannot be entertained on the ground of inordinate delay and laches.

4. Furthermore, the mere fact that the initial entry of Shri Ramjibhai C in service may be one year later than that of the applicant does not provide sufficient basis for holding that the applicant was wrongly or illegally superceded at the time of promotion to the post of Machineman Grade III in 1975.

5. In the result, therefore, the O.A. is dismissed without, however, any order as to costs.

  
(V. Radhakrishnan)

Member (A)

  
(N.B. Patel)

Vice Chairman

aab