

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
AHMEDABAD BENCH

**O.A. NO.** 373/90

**T.A. NO.**

DATE OF DECISION 17/8/94

Mr. Kripa Tiwari and Others Petitioner

Mr. P.K. Handa Advocate for the Petitioner (s)

Versus

Union of India and Others Respondent

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

**CORAM**

The Hon'ble Mr. K. Ramamoorthy Member (A)

The Hon'ble Mr. Dr. R.K. Saxena 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 ?
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

(a)

1. Kripa Shankar R. Tiwari
2. Ravishankar Rao
3. Barnard Alts M.
4. Daniya M.
5. Shaikh F.G.
6. Abbas T.
7. M.B. Pradhan
8. Natwarlal M.
9. S.S. Paul Raj.
10. Rajivinsant
11. S.S. Surve
12. Jasu W. Parmar
13. S.G. Swale
14. Mansaram D. Mali
15. Inayatulla M. Pathan
16. S.S. Kulkarni
17. S.B. Bhavsar
18. N. Vijiyan
19. P.D. Pathak
20. A.R. Nare
21. M.A. Khan
22. Chandubhai S. Mali
23. Somol A.
24. Sagirkhan S.
25. Josheph Thomas
26. Jacob Suleman
27. Jaishankar A.
28. Shaikh Abul Jabbar
29. Riyajbahadur Khan
30. Bhailal Sankar
31. Bhagwati J. Panchal
32. Prakash J. Shah
33. S.J. Patel
34. Hariram R. Sharma
35. Nasirkhan M. Pathan
36. Babubhai K. Bhavsar
37. Dineshwar Mishra

Advocate Mr. P.K. Handa

**Versus**

1. Union of India  
Through General Manager  
Western Railway, Churchgate  
Bombay.
2. Divisional Railway Manager  
Western Railway, Vadodara Division  
Pratapnagar, Vadodara.
3. Divisional Electrical Engineer (TRS)  
Vadodara Division, Vadodara Yard, Vadodara. Respondents.

Advocate Mr. N.S. Shevde.

Respondents no. 4 to 15 as are mentioned in the application.

J U D G M E N T

In  
A. 373/90

Date: 17/8/94

Per Hon'ble Dr. R.K. Saxena

Member (J)

30

The applicants have challenged the order dated 20-3-1990 - Annexure-A whereby the respondents no.4 to 15 have been brought in between Serial No. 154 to 155 of the seniority list.

2. The case of the applicants is that they were initially appointed as Casual labourers in the year 1973. The screening test was held in the year 1978 and after that test, a list dated 5-1-78 Annexure-A disclosing the names of all the applicants and of the respondents No. 4 to 15 was published. The screening tests were held on 10-1-1978, 11-1-1978, 12-1-1978. Those who were found suitable, were placed on the list which was prepared on 26-7-78, Annexure A-2. It included the names of the applicants but none of the respondents No. 4 to 15 were included. Ultimately, the applicants were finally absorbed in the year 1980, and their seniority list, dated 15-5-1981, Annexure A-3 was published. In this list also the names of the respondents no.4 to 15 were not shown.

3. It is stated that another panel was declared on 10-4-1980 Annexure A-5 which was based on the screening test done in the year 1979, in which the respondents No. 4 to 15 had appeared and their names were disclosed in the list of those casual labourers who were required to attend the screening test. The list was prepared on 5-10-79, Annexure A-4. The applicants, however, contended that with the connivance of the Railway Officials, these respondents No.4 to 15, got their names interpolated in the seniority list between Sr. No. 154 and 155. According to them, it was illegal and seniority list deserves quashment.

4. The respondents, on the other hand, contended that the respondents no. 4 to 15 were working as Project Casual labourers of Railway Electrification, Baroda and they were called for screening test in the year 1978

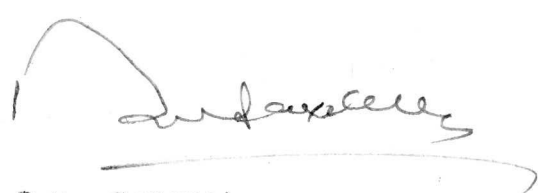
and on their being found suitable, the list was published on 10-4-1978. This list has been produced as R-1. It is, however, averred that the respondents No. 4 to 15 were wrongly called for screening test again along with the applicants in the year 1978, and second time in the year 1979. Because of the mistake, the earlier screening test which was taken and in which the respondents no. 4 to 15 were found suitable, cannot be undone. The submission of the respondents is also that the respondents no. 4 to 15 were senior to the applicants and, therefore, their names were inserted in between Sr. No. 154 & 155.

5. We have heard the learned counsel for the applicants and the respondents.

6. The main question in this case is whether the respondents no. 4 to 15 underwent screening test prior to the applicants, and if they were called again for the screening test, by mistake <sup>whether will it</sup> ~~will~~ it undo the earlier screening test. The respondents no. 1 to 3 have brought the list along with the order 10-4-1978, showing that the suitability was determined by screening test and 56 persons including respondents no. 4 to 15 were found fit. This fact could not be belied or disproved by the applicants. Had it been the fact that it was not a genuine document, the position would have been different, <sup>here</sup> but it is not so. The result, therefore, is that the respondents no. 4 to 15, were called for screening test several months

earlier to the applicants and they were found fit. If because of some mistake those respondents no. 4 to 15 were called for screening test, <sup>again,</sup> it cannot undo the result of the earlier screening test. No doubt this fact that the respondents no. 4 to 15 who were declared suitable vide order dated 10-4-1978 were again called for screening test along with the applicant in January 1978, and thereafter in 1979, smacks of in-efficiency and mis-management of the department but, thereby the acquired right of the respondents no. 4 to 15 as are mentioned in the application cannot be denied or ignored.

7. In our opinion, the placement of the respondents no. 4 to 15 in the seniority list cannot be challenged. The application is, therefore, dismissed.



(Dr. R.K. Saxena)  
Member (J)



(K. Ramamoorthy)  
Member (A)

\*AS.