

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 503/90
T.A.NO.

DATE OF DECISION 27.11.1997Mr. S.P. Vohra

Petitioner

Mr. M.S. Trivedi

Advocate for the Petitioner [s]

Versus

Union of India and Others

Respondent

Mr. N.S. Shavde

Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V. Radhakrishnan, Member (A)

The Hon'ble Mr. T.N. Bhat, 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 Lerdships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

170

Shri S.P. Vohra,
161, LIG, Shastri Nagar,
Vallabh Krupa,
Bhavnagar Para.

... Applicant

(Advocate: Mr. M.S. Trivedi)

Versus

- (1) Union of India, notice to be served through the General Manager, Western Railway, Churchgate, Bombay.
- (2) The Financial Adviser & Chief Accounts Officer, Western Railway, Churchgate, Bombay.
- (3) The Chief Cashier, Western Railway, Churchgate, Bombay
- (4) The Divl. Accounts Officer, Bhavnagar Division, Western Railway, Bhavnagar Para.

... Respondents

(Advocate: Mr. N.S. Shevde)

ORAL ORDER

O.A./503/90

Dated: 27.11.1997

Per: Hon'ble Mr. T.N. Bhat, Member (J)

1. The applicant in this OA has retired from Railway service on attaining superannuation. However, the grievance agitated by him in this OA is that his service from 10.02.1951 to 20.01.1954, when his services were terminated, but where-after he was again appointed on 02.12.1954, have not been considered for the purpose of revision/fixation of his seniority and the consequent entitlement to promotion or higher pay.
2. The brief facts giving rise to this OA may be stated follows:-

The applicant was initially recruited by the erstwhi

Cont

Saurashtra Railways and after receiving some training, he was appointed as Telegraph (Traffic) Signaller on 10.02.1951. He continued in service but his services were terminated on 20.01.1954 on the alleged ground that he did not possess the requisite qualification and had only been locally recruited by the Saurashtra Railways. However, later, in terms of the directive issued by the Railway Board by its letter dated 20.05.1953, the applicant was again appointed with effect from 02.12.1954. At the time of the applicant's retirement, or even prior to that, he made the request that the break in service between 20.01.1954 and 02.12.1954 be condoned and, further, that the past service rendered by him with the Saurashtra Railways also be considered for the purposes of pension as also seniority.

3. As regards the question of reckoning the past service for the purpose of pension, it is not disputed that this request has been accepted. However, the applicant has not been granted the benefit of revised seniority after taking into account the service rendered by him from 10.02.1951 onwards. It is stated by the applicant that some other similarly placed railway employees, notably S/Shri V.J. Abharya and R.H. Bhatt, were given the benefit of revised seniority and had also been promoted on that basis. The applicant also claims himself to be senior to the aforesaid two employees.

The applicant has prayed for the following reliefs:-

(A) "To quash and set aside letter No.EU/1160/68/3/83 dated 28.10.1989 of the respondents railway administration, which is arbitrary, unconstitutional and violative of Articles 14 & 16 of the Constitution of India.

(B) To declare that the applicant is entitled to seniority and consequential benefits such as proforma fixation of pay promotions from due dates etc. taking initial date of appointment as 10.02.1951 which fact is accepted by the respondents railway administration vide their letter No.CP/Adm./132 dated 16.09.1985.

(C) To grant any more relief or reliefs which the Honourable Tribunal deem fit and expedient including costs of and incidental to this application."

4. The respondents have resisted the OA mainly on the ground that the applicant is not entitled to the benefit of revised seniority. It is also stated in the reply to the amended portion of the OA that applicant and M/s Acharya and Bhatt belong to different seniority units and therefore the applicant could not claim to be senior to them. The OA has also been resisted on the ground of limitation.

5. As regards the question of limitation, we may mention that the applicant is particularly aggrieved by the order dated 28.10.1989 issued by ~~the~~ one Mrs. Neera Khutia for the General Manager wherein it is stated that in the absence of any proof about the applicant's previous service before 15.05.1950, the administration cannot take any decision on the request of the applicant for condonation of break in service and refixation of seniority. We further notice that prior to the aforesaid date there was some correspondence between the different officers of the Railway Department as also their correspondence with the Workers' Union in which the applicant's case was stated to be still under consideration. In these circumstances we are of the view that this OA is not hit by limitation. At any rate, we can restrict the consequential benefits that may be found due to the applicant to a period of only one year prior to the filing of this OA.

6. The learned counsel of the applicant has taken us through the extract of the Minutes of the informal meeting held between Western Railway Employees Union and the Chief Personnel Officer on 18.06.1986 (Annexure A-III) in which while referring to the cases of S/Shri Acharya and Bhatt it has been stated that the said employees have been extended the benefit of not only condonation of break in service for the period between 10.02.1951 to 20.01.1954 and from 20.01.1954 to 4.9.1954 but also the revision of their seniority as a consequence thereof.

One further finds from the letter dated 11.09.1987 from the DAO addressed to the CC(JA), as at Annexure AA-V, that both the aforesaid gentlemen, namely, Shri Acharya and Shri Bhatt had been given the benefit of seniority from the initial date of their appointment ~~and~~ put in by them before the date of break in service; and after the condonation of the break in service their names had been interpolated in the seniority lists. In these circumstances, we find no justification for the respondents to deny the same benefit to the applicant. The learned counsel of the respondents also has not been able to give any cogent reason why the benefit of past service should be denied to the applicant for the purposes of seniority when the break in service has been condoned. According to him, the benefit of past service has already been given for the purpose of fixation of pension and the past service has been considered as qualifying service. We do not find ourselves in agreement with his further contention that condonation of past service cannot be considered so far as the question of fixation/revision of seniority is concerned.

7. On going through the ~~intimated~~ order dated 28.10.1989, we find no rationale behind the view taken by the General Manager, as in our opinion, any service put in by the applicant prior to 15.05.1950 would not be relevant for considering his request for revision of seniority. In this regard, we may state that according to Railway Board's instructions, such persons who were locally recruited by ex-Saurashtra Railway Administration after 15.05.1950 and whose services were terminated on the ground that they did not possess the minimum qualification were required to be reappointed. Any service put in prior to 15.05.1950 was not a point that was required to be considered while offering fresh appointment.

8. Although, during the course of his arguments, the learned counsel for the applicant ~~argued~~ urged that the seniority of the

applicant should be reckoned from the date he went for training, we do not find any prayer for such a relief in the OA. On the contrary, it is clearly stated in Sub-Para (B) of Para 9 that the applicant is entitled to seniority and consequential benefits taking into account the initial date of appointment to be 10.02.1951.

9. In view of what has been held and discussed above, we are convinced that the applicant is entitled to the relief prayed for by him. In the result, this OA is allowed and the respondents are directed to consider the past service of the applicant from 10.02.51 onwards not only for the purpose of pension but also for the purpose of refixation/revision of seniority in the seniority unit to which he belongs. We further direct that if the applicant is found entitled to any enhancement in his pay or promotion as consequential benefits, the same shall be notionally fixed from the relevant dates but the arrears shall be paid from a date one year prior to the filing of this OA. (9.11.1990). We further direct that this order shall be implemented within three months from the date of receipt of a copy of this order.

10. No order as to costs.

T.N. Bhat
27.11.1997.

(T.N. Bhat)
Member (J)

V.R.
(V. Radhakrishnan)
Member (A)

hki

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH AHMEDABAD

Serial No. 27

Register No. 2

Page No. 6

Date: 18-12-2006

Respectfully Submitted:

Hon'ble Vice Chairman,

Hon'ble Member(A),

Hon'ble Member(),

Certified copy of order dated 06-10-2006 in C.A/Special C.A.No 6933
of 1999 passed by the Hon'ble Supreme Court/Hon'ble High Court against the
Judgment/Oral Order passed by this Tribunal in Original Application No 503/90
placed for perusal please.

Dealing Clerk

SECTION OFFICER(J)

Position of this case is :

- 1. Confirming CAT Orders
- 2. Partly allowed.
- 3. Reversing CAT Order.

Registrar,

Hon'ble Vice Chairman

Hon'ble Member(),

Hon'ble Member()

Central Arbitration Tribunal
Ahmedabad Bench
Inward No. MA/99
Date 13/9/99

10837
Decree Despatch No.
Date 24/11/99

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

Special Civil Application No 6933 of 1999
(Under Article(s) 226, 227 & 14 etc. of the Constitution of India)

1. UNION OF INDIA & ORS.
Vs

1. SP VOHRA

Petitioners

Respondent

To
1. UNION OF INDIA

GENERAL MANAGER WESTERN
RAILWAY, CHURCHGATE,
BOMBAY.

2. FINANCIAL ADVISER AND CHIEF
ACCOUNTS OFFICER W.RAILWAY
CHURCHGATE,
BOMBAY.

3. CHIEF CASHIER W.RAILWAY
CHURCHGATE,
BOMBAY.

4. DIVISIONAL ACCOUNTS OFFICER
BHAVNAGAR DIVISION
WESTERN RAILWAY,
BHAVNAGAR PARA,
BHAVNAGAR.

5. THE MEMBER, C.A.T., AHMEDABAD
BENCH, OPP. SARDAR PATEL STADIUM
AHMEDABAD. 1990
(D.A. 503/1999) MA/152/99 with MA/73/99
in RA/12/99

Upon reading the petition of the above named Petitioners presented
to this High Court of Gujarat at Ahmedabad on 09/09/1999 praying to
grant the prayers and etc.

And whereas upon the Court ordered 'Rule' to issue on 10/09/1999

And Whereas Upon hearing
MR MUKESH A PATEL for the Petitioner no. 1-4
MR MS TRIVEDI for the Respondent no. 1

Court passed the following order :-

CORAM : B.J.SHETHNA & M. D. SHAH, JJ.
DATE : 06/10/2006

"Heard learned counsel for the parties,
..... petition fails ... dismissed with costs"

COPY OF JUDGMENT IS ENCLOSED HEREWITH

10837
Recon Patal
Plz mark "P" on file

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6933 of 1999

For Approval and Signature:

HONOURABLE MR. JUSTICE B.J.SHETHNA
HONOURABLE MR.JUSTICE MD SHAH=====
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 this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?5 Whether it is to be circulated to the civil judge
?

N/

=====
UNION OF INDIA & 3 - Petitioner(s)

VERSUS

SP VOHRA - Respondent(s)

Appearance :

MR MUJESH A PATEL for Petitioner(s) : 1 - 4.
MR MS TRIVEDI for Respondent(s) : 1.=====
CORAM : HONOURABLE MR. JUSTICE B.J.SHETHNA

and

HONOURABLE MR.JUSTICE MD SHAH

Date : 06/10/2006

ORAL JUDGMENT

(Per : HONOURABLE MR. JUSTICE B.J.SHETHNA)

Heard learned Counsel for the parties, Shri Patel for the petitioner and Shri Trivedi for the respondent - original Applicant.

The respondent - original applicant retired from Railway on attaining the age of superannuation. He approached the Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad (for short "the Tribunal"), by way of OA NO.503 of 1999 with a limited grievance that his service from 10.2.1951 to 20.1.1954 was not considered for the purpose of revision/fixation of his seniority and the consequential benefits. The learned Tribunal by its impugned Judgment and order dated 27.11.1997 allowed the Application and held that the applicant is entitled to the relief prayed for by him and accordingly directed the respondents - present petitioners to consider the past service of the applicant from 10.2.1951 onwards not only for the purpose of pension but also for the purpose of re-fixation/revision of seniority in the seniority unit to which he belongs. This is challenged in this petition by the petitioners.

Learned Counsel Shri Mukesh Patel for the petitioners submitted that learned Tribunal has committed grave error in allowing the application of the respondent - applicant. He submitted that by granting relief in favour of the applicant the learned Tribunal did not consider the fact that it may affect his senior. There is no substance in this submission. From the impugned Judgment and order passed by the learned Tribunal it is clear that only notional benefits were given. The relief, which is granted in favour of the applicant, was to consider

his past service from 10.2.1951 onwards not only for the purpose of pension, but also for the purpose of re-fixation/revision of seniority. It is unfortunate that though the petition was to be heard in 1999, the same could not be heard for some or the other reasons. Be that as it may.

Considering the facts and circumstances of the case and on going through the reasons given by the learned Tribunal we are not inclined to interfere with the same under Article 227 of the Constitution, the scope of which is very narrow and limited.

In view of the above discussion, this petition fails and is hereby dismissed with costs.

sd/s
(B. J. SHETHNA, J.)

sd/v

(M. D. SHAH, J.)

sas

TRUE COPY
P. P. S. TO THE HON'BLE JUDGE
HIGH COURT OF GUJARAT.

By order of the Court

13/10/06
For Deputy Registrar

10/10/06
11/10/06

10/10/06
21/10/06

21/10/06

(To be returned to this High Court after duly served upon Addressee No. _____ / To be served upon Addressee No. _____)

NO.S.C.(CIVIL) SPL.S. 5960/72/ 8132 /2014
AHMEDABAD. DATE : 17/07 /2014

From :

Deputy Registrar,
Supreme Court Department,
High Court of Gujarat, Sola,
Ahmedabad 380060.

Inward No. 1505
Date 8/8/14

To :

1. The Registrar,
Central Administrative Tribunal,
Opp. Sardar Patel Stadium,
Navrangpura, Ahmedabad-380009.
(Ref.- O.A.No.503 of 1990)
2. ^{The} General Manager,
Union of India,
Western Railway,
Churchgate,
Bombay.
3. The Financial Adviser and Chief
Accounts Officer,
W.Railway,
Churchgate, Bombay.
4. The Chief Cashier,
W. Railway,
Churchgate,
Bombay.
5. The Divisional Accounts Officer,
Bhavnagar Division,
Western Railway,
Bhavnagar Para,
Bhavnagar.
6. S. P. Vohra,
161, LIG, Shastrinagar
Vallabhkrupa,
Bhavnagar Para,
Bhavnagar.

SUPREME COURT CIVIL APPEAL NO. 1456 OF 2008
IN
HIGH COURT SPECIAL CIVIL APPLICATION NO. 6933 OF 1999

UNION OF INDIA & ORS.

...APPELLANTS

-VERSUS -

S. P. VOHRA

...RESPONDENT

Sir,

With reference to the subject noted above, I am directed to forward herewith the ^{true} copy of the Order dated 20th May, 2014 of the Honourable Supreme Court of India, New Delhi, passed in the above matter, for information and necessary action.

Please acknowledge receipt.

Yours faithfully

[Signature]
17/07/2014
Deputy Registrar
Supreme Court Department

Encl. : As above.

*Re
21/8/14
SOL S. 5960/72/14
11/8/14*

052455

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1456 OF 2008

Union of India & Ors.

.. Appellant(s)

Versus

S.P. Vohra

.. Respondent(s)

O R D E R

Heard Mr. S.P. Singh learned senior counsel appearing on behalf of the appellants. None has appeared for the respondent.

The respondent instituted O.A.No.503 of 1990 before the Central Administrative Tribunal, Ahmedabad Bench, (for short the 'Tribunal') for computation of his past service commencing 10.02.51 to 20.01.54 and grant him revision/fixation of his seniority and the consequential consideration for promotion and higher pay.

On a perusal the order passed by the Tribunal, it is perceivable that it has issued the following directions:

"In view of what has been held and discussed above, we are convinced that the applicant is entitled to the relief prayed for by him. In the result, this OA is allowed and the respondents are directed to consider the past service of the applicant from 10.02.51 onwards not only for the purpose of pension but also for the purpose of refixation/revision of seniority in the seniority unit to which he belongs. We further direct that if the applicant is found entitled to any enhancement in his pay or promotion as consequential benefits, the same shall be notionally fixed from the relevant dates but the

:2:

arrears shall be paid from a date one year prior to the filing of this O.A, (09-11-1990). We further direct that this order shall be implemented within three months from the date of receipt of a copy of this order."

The order passed by the Tribunal was assailed before the High Court under Article 226 and 227 of the Constitution in Special Civil Application No.6933 of 1999 and the High Court by the impugned order has affirmed the said directions of the Tribunal.

Mr. Singh learned senior counsel for appellants submitted that the respondent has already been given the pensionary benefits counting the aforesaid period as a part of his services rendered in the Railways. The principal grievance which has been agitated by Mr. Singh is that the direction for re-fixation/revision of seniority and grant of consequential benefits on the ground that if such a direction is allowed to stand it will create disturbance in the seniority position even in future. Regard being had to the apprehension of Mr. Singh we are only inclined to modify the order of the Tribunal that has been affirmed by the High Court that the period in question apart from computed towards pension shall also be taken into consideration for fixation of pay scale notionally so that he can get higher pension. The arrears of pension on the basis of re-computation by grant of higher pay scale to the

:3:

respondent shall be paid within three months hence. We hasten to add this direction we have passed regard being had to the peculiar facts and circumstances of the case and it shall not be treated as a precedent in any other case.

With the aforesaid modification. the appeal stand disposed of without any order as to costs.

.....SOL.....J.
[DIPAK MISRA]

.....SOL.....J.
[N.V. RAMANA]

NEW DELHI,
MAY 20, 2014.

TRUE COPY
17/07/2014
DEPUTY REGISTRAR
HIGH COURT OF GUJARAT
SOLA, AHMEDABAD

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD

Application No. 04/503/ao

Transfer Application No. _____

CERTIFICATE

Certified that no further action is required to be taken
and the case is fit for consignment to the Record Room (Decided).

Date: 24/12

Signature of the Dealing
Assistant

Countersign:-

Section Officer

Mr
24/12/1972
D2694r

Center for the Study of Violence

AHMEDABAD BENCH
AHMEDABAD

I N D E X - S H E E T

CAUSE TITLE 04/503/90

NAME OF THE PARTIES Mr. S. P. Vohra.

VERSUS

W.O.I. & Co

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

Submitted ;

C.A.T./JUDICIAL SECTION.

Original Petition No.: 503 of 90.

Miscellaneous Petition No.: _____ of _____.

Shri S P Vohra Petitioner(s).

Versus.

Union of India &c Respondent(s).

This application has been submitted to the Tribunal by
Shri K G Pandit

Under Section 19 of the Administrative Tribunal Act, 1985.
It has been scrutinised with reference to the points mentioned
in the check list in the light of the provisions contained in
the Administrative Tribunals Act, 1985 and Central Administrative
Tribunals (Procedure) Rules, 1985.

The Application has been found in order and may be given
to concerned for fixation of date.

The application has not been found in order for the reasons
indicated in the check list. The applicant may be advised to
rectify the same within 21 days/draft letter is placed below
for signature.

8 ✓ V.P. not duly filed & stamped
14/11 stamped

Asstt. : ✓ Col. no 11 not duly filled

S.O.(J). : ✓ Application not signed by Adv.

Dy. R.(J): ✓ Document not filed in all sets

be my issue by law

15/11

Am

so

GAC/7690/-

DRAO

SP

15/11/90

K B Sane
15/11/90

SP

15/11/90
K B Sane
15/11/90

p 70

Adv Concan has complicated os;
so this may be placed on

8
5/12

Mr
to
012411

We may fix the date for

admission notice before
admission notice as copy
not send to outside

copy

6/1/90

copy

10/12/90

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

APPLICANT (S)

S P Vohra

RESPONDENT(S)

Union of India

PARTICULARS TO BE EXAMINEDENDORSEMENT AS TO
RESULT OF EXAMINATION.

1. Is the application competent ? *Y*
2. (A) Is the application in the prescribed form ? *Y*
(B) Is the application in paper book form ? *Y*
(C) Have prescribed number complete sets of the application been filed ? *Y*
3. Is the application in time ?
If not, by how many days is it beyond time ?
Has sufficient cause for not making the application in time stated ? *Y*
4. Has the document of authorisation/ Vakalat Nama been filed ? *Y*
5. Is the application accompanied by D.D./I.P.O. for Rs.50/-? Number *PN 382677* *6* ~~xx~~ of D.D./I.P.O. to be recorded. *Y*
6. Has the copy/copies of the order(s) against which the application is made, been filed.? *Y*
7. (a) Have the copies of the documents relied upon by the applicant and mentioned in the application been filed. ? *NO*
(b) Have the documents referred to in (a) above duly attested and numbered accordingly ? *Not applicable*
(c) Are the documents referred to in (a) above neatly typed in double space ? *Y*
8. Has the index of documents has been filed and has the paging been done properly ? *Y*

PARTICULARS TO BE EXAMINED.

ENDORSEMENT TO BE RESULT
OF EXAMINATION.

9. Have the chronological details of representations made and the outcome of such representation been indicated in the application?

10. Is the matter raised in the application pending before any court of law or any other Bench of the Tribunal?

11. Are the application/duplicate copy/spare copies signed?

12. Are extra copies of the application with annexures filed?

(a) Identical with the Original.

(b) Defective.

(c) Wanting in Annexures

No. Page Nos. ?

(d) Distinctly Typed?

13. Have full size envelopes bearing full address of the respondents been filed?

14. Are the given addressed, the registered addressed?

15. Do the names of the parties stated in the copies, tally with Name(s) ~~hope~~ those indicated in the application?

16. Are the transactions certified to be true or supported by an affidavit affirming that ~~any~~ they are true?

17. Are the facts for the cases mentioned under item No.6 of the application?

(a) Concise?

(b) Under Distinct heads ~~in~~

(c) Numbered consecutively?

(d) Typed in double space on one side of the paper?

18. Have the particulars for interim order prayed for, stated with reasons?

700
checked
optu
1571160

SLCp 470190
9/11/90

(1)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

ORIGINAL APPLICATION NO. 503 OF 1990.

S.P. Vohra. Applicant.

V/s.

Union of India & Ors. Respondents.

I N D E X

Annexures.	Particulars.	Pages Nos.
A-1	Memo of application. True copy of order dtd. 28.10.89.	1 to 13
A-II	True copy of certificate dated 6.2.1951.	14
A-III	True copy of office order dated 16.9.1985.	15
A-IV	True copy of minutes of WREU meeting dtd. 18.6.86.	16
A-V	True copy of representation dated 4.6.1987.	17
A-VI	True copy of letter dated 11.9.1987.	18
A-VII	Representation dtd. 23.11.87.	19
A-VIII	True copy of letter dated 29.2.1988.	20
A-VIII	True copy of extract from the WREU meeting held on 11.8.1989.	21
A-IX	True copy of representation dated 22.7.1990.	22
A-X & XI.	True copies of declaration/affidavit. dtd 27-11-89 & 20-7-89	23 - 24
A-XII	True copy of letter dated 28.10.1989.	25
A-XIII & A-XIV.	True copy of letter dated 25.5.87 and 29.10.75.	26 - 27
A-XV	True copy of seniority list.	28
A-XVI	True copy of detailed affidavit.	29 - 30

(2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

ORIGINAL APPLICATION NO. 503 OF 1990.

S.P. Vohra, Applicant.

..... Versus.

Union of India & Ors. Respondents.

DETAILS OF APPLICATION

1. Particulars of the applicant:

S.P. Vohra

Aged about 58 years, Hindu,
employed in the Cash & Pay Deptt.,
Divisional Cashier's Office,
Western Railway, Bhavnagar Para.
resident of 161, LIG, Shastri Nagar,
Vallabh Krupa, Bhavnagar Para.

Address for service of notices: As above.

2. Particulars of the respondent:

- (1) Union of India, notice to be served through the General Manager, Western Railway, Churchgate, Bombay.
- (2) The Financial Adviser & Chief Accounts Officer, Western Railway, Churchgate, Bombay.
- (3) The Chief Cashier, Western Railway, Churchgate, Bombay.
- (4) The Divl. Accounts Officer, Bhavnagar Division, Western Railway, Bhavnagar Para.

3. Particulars of the order against which application is made.

The application is against the following orders:

1) Order No. CP/Adm/132, dated 16.9.1985

passed by Chief Cashier, Western Railway,

Churchgate, Bombay. (Annex. A-II)

2) Order No. EU/1160/68/3/83 dated 28.10.89

passed by General Manager, Western Railway,

Churchgate, Bombay. ~~██████████~~

(Annex. A-II)

Subject in brief:

Condonation of break in service and seniority.

4. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the orders against which he wants redressal is within the jurisdiction of the Tribunal.

5. Limitation:

The applicant further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunals Act, 1985.

6. Facts of the case:

The facts of the case are given below:

6.1. The applicant submits that he is employed as a Head Clerk in scale Rs. 1400-2300(RS), in the office of Divisional Cashier,

Western Railway, Bhavnagar Para. The respondent No.4 is the immediate officer. The respondent No.3 is the Administrative Officer. The respondent No.2 is the Head of Department and the respondent No.1 is in overall control of the Western Railway.

6.2. The applicant submits that he was recruited by the ex-Saurashtra Railway at the Telegraph Training Class, Bhavnagar Para, conducted by the District Traffic Superintendent, Saurashtra Railway, and received training at the above centre from 1.3.1950 to 30.9.1950 and thereafter practical training under the Station Master, Bhavnagar Terminus Station, from 1.10.1950 to 6.2.1951. On successful completion of training, the applicant was awarded certificate bearing No. 14 dated 6.2.1951 by the District Traffic Superintendent, Saurashtra Railway, and was appointed as Telegraph (Traffic) Signaller from 10.2.1951.

The applicant produces a copy of the said certificate

Ann. A-1. dated 6.2.1951 at Annexure A-1 herewith. The services of the applicant were, however, terminated on 20.1.1954 with an excuse that the applicant was locally recruited by the ex-Saurashtra Railway after the date 15.5.1950. Later, in terms of directives vide Railway Board's letter No. E(S)SO RRI/I dated 20.5.1953, such of the persons who were locally recruited by the ex-Saurashtra Railway and whose services were terminated and were called back and accordingly the applicant was re-appointed to the post of Clerk scale Rs. 55-85(P). He joined as Clerk,

scale Rs. 55-85(P) from 3-12-54. Since then he made a number of representations to consider his past services as Telegraph (Traffic) Signaller from 10.2.1951 to 20.1.1954. The case was also taken up by the recognised union. That as a result of continuous efforts of the applicant, the respondent Railway authorities issued an Office Order No. CP/Adm/132 dated 16.9.1985, copy of which placed at Annexure A-II, treating the period from 10.2.1951 to 20.1.1954 as qualifying service for pension and condoning the break from 21.1.1954 to 2.12.1954 with a restriction that it would not be counted as qualifying service for pension. The office order added that the condonation of break in service and qualifying service for pension, as above, may not be construed to have an effect in the relative seniority. The applicant begs to reproduce below an extract from the aforesaid office order dated 16.9.1985:

"..... Shri S.P. Vohra had requested for condonation of break in service from 21.1.1954 to 2.12.1954 and in terms of instructions contained in para 4 of Ministry of Finance, Department of Expenditure Office Memo No. F 11(3)EV(A)76 dated 28.2.1975, the period of break in service of Shri S.P. Vohra from 21.1.1954 to 2.12.54 is treated to have been automatically condoned and his former service prior

Ann.A-II

(4)

to break in service from 10.2.51 to 20.1.54 is treated as qualifying service for pension as confirmed by APO(HQ) vide D.O. No.E-839/14/8/109 dated 4.12.81 in a similar case. However the period of interruption itself will not be reckoned as qualifying service for pension. The condonation of break in service and qualifying service for pension as stated above may not be construed to have an effect in the relative seniority."

That the above decision was very late and that too vague and ambiguous so far as the relative seniority of the applicant was concerned having been considered his past services and condoned the break in service. The applicant continued to represent through the recognised union and also individually for setting right his seniority as would be seen from the copies of letters/applications listed below:

(i) Extract from the minutes of the informal meeting of WREU and CPO/CPO(IR)CCG on 18.6.86
(Annexure A-III.)

Ann. A-III.

(ii) Representation dated 4.6.87 of the applicant, (Annexure A-IV)

Ann. A-IV.

(iii) DAO-BVP's letter No. BVP/Adm/1623/E-804/306 Vol.I dtd. 11.9.87
(Annexure A-V)

Ann. A-V.

(iv) Representation dtd. 23.11.87 of the applicant. (Annexure A-VI)

Ann. A-VI.

(v) Letter No. INF/10/83 dtd. 29.2.88

from General Secretary, W.R.E.U. to
General Manager(E) CCG. (Ann.A-VII.)

Ann. A-VII.

(vi) Extract from the W.R.E.U. informal

meetintg held on 11.8.89, (Ann.A-VIII)

Ann. A-VIII

(vii) Representation dated 22.7.1990 of the

applicant. (Annexure A-IX)

Ann. A-IX

That during the meetings with the WREU the Railway Administration stated that the date of appointment 10.2.1951 is not entered in the service sheet of applicant and in absence of the records of service from 10.2.1951 to 20.1.1954, the request for seniority from 10.2.1951 cannot be accepted to. The applicant furnished a declaration dated 27.11.89 from a co-worker Shri V.J. Acharya to the effect that the applicant received training at Telegraph Class, Bhavnagar Para, conducted by the ex-Saurashtra Railway from 1.3.1950 to 30.9.1950 and was appointed as Telegraph Signeller from 10.2.51. An affidavit dated 20.9.89 was also filed by the applicant. The copis of the said declaration/ affidavit are placed at Annexure A-X and Annexure A-XI respectively.

Ann. A-X & A-XI

6.3. The outcome of above all endeavours is letter No. EU/1160/68/3/83 dated 28.10.89 from General Manager CCG to the General Secretary, WREU, Bombay, a copy of which is at Annexure A-XII. It is very much disappointing that the Railway Administration

Ann. A-XII

(Traffic) Signallers, as for example, (1) Shri V.J. Acharya, (2) Shri R.H. Bhatt and (3) Shri M.S. Joshi. In support of this say, the applicant produces herewith copies of letter Nos. ED/V/9 dated 25.5.87 and E(R&T)890/B Vol.II dated 29.10.75 at

Annexure A-XIII and Annexure A-XIV. In the service sheets of these persons, the entries in respect of initial appointments as

Telegraph (Traffic) Signallers did not exist, yet benefits of seniority and proforma fixation of pay are allowed.

6.4. The applicant humbly adds that argument of the Railway Administration that old service record is not accessible is wrong.

The applicant takes liberty to produce an extract from the seniority list at Annexure A-XV

herewith which is Railway's own record showing date of appointment of the applicant to be 10.2.1951. One of the above three persons,

Shri V.J. Acharya, whose case is considered by the Department, is kind enough to execute a detailed affidavit confirming applicant's training period and initial date of appointment which is placed at Annexure A-XVI herewith.

Ann. A-XV.

Ann. A-XVI

6.6. Grounds for relief with legal position:-

(a) The provisions contained in Chapter III of the Indian Railway Establishment Manual (rules governing seniority of non-gazetted Railway servants) are attracted.

(b) In the matter of employment the relative

Received & PEL
8.7.94
1-5-94

have denied seniority on the plea that record for recruitment to the Railway Service prior to 15.5.50 is not furnished by the applicant which can be taken as official evidence. Surprisingly enough the Railway Administration have not with them their own records. And, if, that is the case why the employees should suffer. The Railway Administration should ~~exply~~ rely on the evidence furnished by the employees when it is difficult to find out the records. It is submitted that the Railway Administration have entertained several such cases for grant of various benefits on the basis of collateral evidence in the form of affidavit when relevant record is not available. The certificate issued by the ~~Divisional~~ Traffic Superintendent, ex-Saurashtra Railway, Bhavnagar Para, was sufficient proof that applicant was imparted training for six months from 1.3.50 which entitled him to appointment as Telegraph (Traffic) Signaller from 10.2.1951. There are alternative sources also to verify the facts such as seniority lists etc. notified from time to time under signature of the competent authority indicating date of appointment, confirmation etc. These are Railways own records and valid for compilation of missing particulars. The Railway officials concerned who are entrusted to tackle the problem are either misguided or prejudiced. That in the similarly situated cases where the persons were recruited the Telegraph Training Class, Bhavnagar Para, in the Ex-Saurashtra Railway prior to 15.5.50 and inducted in service have been assigned seniority from the initial date of appointment as Telegraph

*Am
Court*

The following may be added after para 6.4 as 6.5

6.5. The applicant submits that he is entitled to his seniority and promotion thereunder on the basis of his seniority shown at Ann-A-15 at page 28 where he is shown at Sr. No. 113 and Mr. V. J. Acharya is shown at S. No. 114 and both have the same appointment date on 10-2-51. Mr. V. J. Acharya retired recently as Office Superintendent scale Rs. 2000-3200(Rs) from the Office of Divisional Railway Manager, Bhavnagar Para. The applicant submits that Mr. V. J. Acharya has received arrears on the basis of seniority from the date shown in his seniority list and the amount was received by him. It is therefore, submitted that the applicant should have been given the benefit from joining the service i.e., 10-2-1951 for the purpose of pension is denied his right to seniority and promotion thereunder, though the person similarly situated has been considered for the due promotion from time to time and he has retired as Office Superintendent and therefore, if the representation made to the respondents were considered at the proper time he also would have received the same promotion on the basis of his entitlement and would have retired as Office Superintendent. The applicant submits that it is an administrative error of a very clear nature that though it is mandatory upon the Railway Administration not to maintain the records and are not in a position to refer to the representation of the applicant by the relevant time. It is, therefore, submitted that the applicant cannot punish all the gross error on the part of the department by denying his right by seniority and promotion which has to be calculated, both for the purpose of payment as arrears as well as pensionary benefit on the basis of accrued promotion and seniority in the scale of Rs. 2000-3200(Rs) The applicant therefore, submits that the action in granting the promotion on the basis of seniority treating in differential to them his junior amongst to be violative of Article 14 & 16 as is contrary and therefore, the Hon'ble Tribunal may direct the respondents to make payment of arrears calculating on the basis of payment of promotion and salary to Mr. Acharya on the due date as he would have got it. The applicant submits that he could not appear for selection as a mistake on the part of the Railway Administration for not considered the representation from time to time, which has resulted into gross injustice to the applicant.

position i.e., seniority has an important role. There are occasions for determining seniority such as initial appointment, promotion, punishment etc. and principles laid down cannot be ignored.

(c) As regards seniority in initial grade, the seniority among the incumbents in the grade is governed by the date of appointment to the grade.

(d) When due to administrative error employee has been assigned wrong seniority and is consequently overlooked for promotion, such case is to be dealt with on individual merits and the employee concerned is to be assigned correct seniority vis-a-vis his juniors. On promotion, pay in higher grade is to be fixed proforma at the stage at which the employee would have reached if he was promoted at the proper time. The instructions in this connection are issued vide Rly. Board's letter No. E(NG) 63 PMI/92 dated 17.9.1964 and 20.10.65 and E(NG) 67 PMI/8 dated 23.6.67.

(e) The initial service of the applicant from 10.2.51 to 2.12.54 is reckoned vide letter dated 16.9.85 therefore benefit of seniority from 10.2.51 is his consequential right.

(f) While similarly situated persons are granted seniority from the initial date of appointment and benefit of proforma fixation, the denial in the case of applicant is arbitrary and violative of Articles 14 & 16 of the Constitution of India amounting to discrimination deserving to be set aside.

(g) The Hon'ble Supreme Court of India in the case of H.D. Singh V/s. Reserve Bank of India, 1985-II-LLN, 1042, held that in absence of any evidence to the contrary, the inference must be drawn that the workman had worked. The ratio of the said case is applicable in the instant case.

(h) The applicant has a *prima facie* case. The denial of seniority to him from due date is arbitrary, discriminatory, irrational and contrary to rules and provisions of Articles 14 & 16 of the Constitution of India. There is no other efficacious remedy for the applicant except to approach this Honourable Tribunal and seek justice. The applicant submits that various representations made to the respondents have not been replied till this date, the same is produced alongwith this application.

7. Details of the remedies exhausted.

The applicant has made vigorous efforts on his part and also with the help of the recognized trade union as explained above. The department has failed to redress the grievance of the applicant in confirmity with the rules and directives of the railway board on the subject matter.

8. Matters not previously filed or pending with any other Court.

The applicant further declares

had not previously filed any

(C) To grant any more relief or reliefs which the Honourable Tribunal deem fit and expedient including costs of and incidental to this application.

10. Interim order, if any prayed for:

NIL.

12. Particulars of Postal Order in respect of the Application Fee:

1. Number of Indian Postal Order: Ad 382647
2. Name of the issuing Post Office: Fog. H.R. P.O.
3. Date of Issue of Postal Order: 28-10-90
4. Post Office at which payable : Aligarh.

13. List of enclosures:

Details shown in attached Index.

contd..... 13/-

application, writ petition or suit regarding the matter in respect of which this application has been made, before any court of law or any other authority or any other Bench of the Tribunal and nor any such application, writ petition or suit is pending before any of them.

9. Relief(s) sought:

In view of the facts mentioned in para 6 above the applicant prays for the following ~~xxxxxx~~ reliefs:

(A) To quash and set aside letter No. EU/1160, 68/3/83 dated 28.10.1989 of the respondents railway administration, which is arbitrary, unconstitutional and violates of Articles 14 & 16 of the Constitution of India.

(B) To declare that the applicant is entitled to seniority and consequential benefits such as proforma fixation of pay promotions from due dates etc. taking initial date of appointment as 10.2.1951 which fact is accepted by the respondent railway administration vide their letter No. CP/Adm./132 dated 16.9.1985.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AHMEDABAD

O.A.No. of 1990

S. P. Vohra.

Petitioner

V/s.

Union of India and others

Respondents

VERIFICATION

I, Sumanal & Pranlal Vohra
aged adult, working as Head Clerk Bhavegar

do hereby verify that the contents of

all the paras of the above referred appli-

cation are true to my personal knowledge and

belief and I have not suppressed any

material facts.

Ahmedabad.



Date:

Signature of applicant

Identified by me:-

Advocate

Chisan Pandit

Filed by Mr. Ch. A. Pandit
Learned Counsel for Petitioner
with copy sent to his spouse
Copies duly served/not served to
other side

for I.C. Sane
D. 22/10/90 by Registrar C.A.T. (9/11/90)
A'bad Bench

SAURASHTRA RAILWAY.

R. 88/48-19.

:O: —

District Traffic Superintendent Office

No. 44

Bhavnagar Para Dated. 6. 2. 1951

Certified that Mr. S. M. Patel was examined

for the post of Signaller on the Saurashtra Railway. He can read by ear Morse Signals at the rate of letter words open circuit and five letter words closed circuit and can send five letter words per minute. He can adjust a direct working Sounder & Bell. He has a fair knowledge of such rules in the Posts and Telegraphs Manual Volume XI as are required by the Licensed offices and of the rules & rates for paid message traffic contained in the Posts and Telegraphs Guide. I consider him qualified to undertake the duties of a Signaller on the Saurashtra Railway.

Signature.....

Dist. Traffic Superintendent

S. Ry. Press-BVR

TWT
OPTAbd
Adi

33-

WESTERN RAILWAY

Chief Cashier (JA)'s Office,
Churchgate, Bombay - 20.

O.O.No.CP/Adm/132

Dated: 16/9/1985.

Sub: Condonation of break in service -
 NG Staff - Shri S.P.Vohra, Sr.Clerk
 scale Rs.330/560(R) Cash & Pay Deptt.

.....

The services of Shri S.P.Vohra were terminated by the Ex.Saurashtra Railway Administration with effect from 20.1.54 in terms of GM(E)CCG's letter No.E.890/30 dt.26.10.53 as he was an un-approved candidate locally recruited by the Ex.Saurashtra Railway after 15.5.1950 and his services remained terminated from 21.1.54 to 2.12.54.

Subsequently in terms of Railway Board's orders contained in their letter No.E(S)50 RRj/1 of 20.5.53, such of the persons who were locally recruited by the Ex.Saurashtra Railway Administration after 15.5.50 and whose services were terminated as they did not possess the minimum qualification were re-appointed as non-Metric Clerks in scale Rs.55-85(P) and accordingly Shri Vohra has been re-appointed as a Clerk in scale Rs.55-85(P) in DME's Office Okha from 4.9.54. Shri S.P.Vohra had requested for condonation of break in service from 21.1.54 to 2.12.54 and in terms of instructions contained in Para 4 of Ministry of Finance, Department of Expenditure Office Memo No.F 11(3)-EV(4)76 dated 28.2.75, the period of break in service of Shri S.P.Vohra from 21.1.54 to 2.12.54 is treated to have been automatically condoned and his former service prior to break in service from 16.2.51 to 20.1.54 is treated as qualifying service for Pension as ~~recommended~~ confirmed by APO(HQ) vide D.O.No.E839/14/8/109 dt.4.12.81 in a similar case. However, the period of interruption itself will not be reckoned as qualifying service for Pension. The condonation of break in service and qualifying service for pension as stated above may not be construed to have any effect ~~as~~ in the relative seniority.

(Authority: CPO's sanction dated 23.8.85 at NP.67 file No.CP/Adm/A6975/E804/1566).

W. Lalani
Chief Cashier (JA).

Copy to:- Dy.CAO(TA)/Dy.CAO(W&S)/ACC-AII. *15/9/85*
 Sr.DAOs-BCT/BRC/KTT/JP/RJT.
 DAOs-RTM/AII/BVP. SAO(W&S)-PL.
 SAO(S&C)-RJT/AII/KTT/IDI.
 AAO(W&S)DID/SBI/KTT. AAO(ENG)-CCG. AAO(Pension)CCG.
 Shri S.P.Vohra, CG-I, Cash & Pay Office/BVP.
 Secretary, W.R.E.Union/W.R.M.Sangh, A/cs.Br./CCG.
 Notice Board.

Chunm
Chief Cashier (JA).

trc12985.

True copy

(11)

Annexure A-III

16

EXTRACT OF THE MINUTES OF THE INFORMAL
MEETING HELD BETWEEN WREU and CPO on
18.06.1986.

(No. EU/1160/53/S VOL VIII).

Item No.142/84.

EU-1160/68/422/84.

Seniority - Shri V.J.Acharya, Sr.Clerk,
APO (GQ) under SS-BVP.

Union were advised that the service sheets of
Shri Acharya and Shri Bhatt have been extended benefit
of condonation of break in service for the period
from 10.02.1951 to 20.01.1954 ~~and from 20.01.1954~~ and
from 20.01.1954 to 04.09.1954 respectively for the
purpose of pensionary benefits. The competent authority
has also accordingly approved to revise the seniority.

True copy
A. D. Ray

From : S.P. Vora,
M.Clerk,
Cash Office, BVP.

Dt/- 4.6.1987

To,
The Chief Cashier,
Western Railway,
Churchgate, Bombay.

(Through Proper channel)

R/SY,

Sub:- Counting of previous services for the purpose
of seniority etc. - Ministerial staff -
Cash office, BVP.

Ref:- Your office order No.CP/Adm./132 dtd. 16.9.85.

In continuation of your decision in the matter for
condonation of break in service vide your office letter
cited above, I beg to submit following few lines for
your kind consideration.

As can be seen from DPO/BVP's D.O. letter No.ED.1030/5 of
23.4.79 addressed to SPC(BC)CCG (copy enclosed) that
my case is also similar to that of Shri V.J. Acharya, and
R.H. Bhatt, M.Clerk working in Personnel Branch in the
DRM's office, BVP. In this connection, the issue was
discussed with Genl.Secy.WREU/BVP and CFO/WRR-CCG in
the Informal meeting on 18.6.86 circulated under CM(E)CCG's
letter No.EU.1160/53/5 Vol.VIII dtd. 26.6.86 (item No.142/86)
and it has been advised by HQ office under their letter No.
EU.1160/53/5 Vol.VIII of 26.6.86 that seniority with effect
from 10.2.51 and 19.8.50 may please be given to S/Shri
V.J. Acharya, and accordingly memorandum No.ED.V/9 dtd.
25.5.87 (copy enclosed) has been issued by DRM(E)BVP by
giving them seniority.

As my case is also similar to that of S/Shri V.J. Acharya,
and R.H. Bhatt, as detailed in DPO BVP's D.O. letter referred
to in para 1 above. I may also be given seniority and other
benefits as admissible under the extant rules.

Being confident of attaining a favourable decision in the
matter I shall be very much obliged.

Thanking you in anticipation.

Yours faithfully,

(S.P. VORA)

C/- In advance to Chief Cashier, CCG for info. and u/s

C/- Divl.Secy.WREU/BVP for info. and u/s

TRB 9/7
A/S
A/W

DAO's office,
BVP. // -11-87.

(B)

To
CC(JA)CCG.

Sub:- Representation in regard to fixation of seniority - Shri S.P. Vora, HC Pay office, BVP -
Ref:- Your letter No. CP/Adm./A.0975/E.804/566 dt.
17.7.87 -

The benefit of condonation of break in service from 21.1.54 to 3.12.54 has been given to Shri S.P. Vora, HC of pay office, BVP vide your O.O.No.CP/Adm/132 dt.16.3.85. Therefore, the representation under reference could have been examined at your end in consultation with GM(S)CCG and representation replied to the result.

However, the personnel branch of BVP Division was contacted to know the course of action taken in similar other cases of S/Shri V.J. Adhikary and R.H. Bhatt. As a result of enquiry, it has been given to understand that both these employees have been given seniority from the initial date of appointment (i.e. before the date of break in service) after condonation of break in service interpolating their interse seniority above their juniors. They have also been given reform promotion and they are being considered for promotion/selection to various other higher posts with reference to their original seniority as on initial date of appointment.

The representation of Shri S.P. Vora returned under your above quoted letter is resubmitted for examining the same and conveying the final decision to Shri Vora.

SD/-
DAO/BVP.

Enc. CPT
AM
PN

From :

Dt/- 23.11.1987.

S.P. Vohra,
Md.Clerk,
Pay office, BVP.To,
The Chief Cashier,
W.Railway, CCG.

(Through Proper channel).

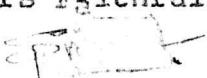
Sub:- Counting of previous services for the purpose
of seniority etc. Ministerial staff.

Ref:- My application dtd. 4.6.87.

With reference to my application of ~~4.6.87~~ 4.6.87, the
reply of which is still awaited from your honour.It is not understood that my case is quite clear and
similar to Shri V.J. Acharya and R.H. Bhatt as per DPO/BVP's
letter No.ED/1030/5 of 23.4.79 copy of which was already
enclosed with my previous application.I therefore request your honour to kindly grant me
seniority at your earliest convenience.

Thanking you in anticipation.

Yours Faithfully,


(S.P. VOHRA)

MR. COP
Ans
Ans

C O P Y.

INF. 10/83.

Grnnt Road.
29.2.83.

The GM (E) CCG.

Sub:: Case of Shri S.P. Vora Clerk Cash Office-BVP.

Ref:: Your letter No. EU 1160/68/3/83 dated 20.7.87.

.....

With reference to your letter dated 20.7.87 it is stated as under:

1. It is correct that the informal item was closed with decision on condonation of break in service. It was thought that with this the unit concerned would complete the remaining claims of fixation of Seniority proforma pay etc. Since it was not done, this office ~~brought~~ wrote to you to reopen item No. 10/83.
2. On representation of Shri S.P. Vora to the DAO/BVP for seniority and fixation of pay based on the similar case decided by HQ in the case of Shri V.J. Acharya, the DAO/BVP under his letter No. BVP/ADM/ 1623/E 804/305 Vol.I dated 11.9.87 as made a reference to the Chief Cashier (JA) CCG and the decision is still pending at HQ/CCG.
3. It is requested to kindly get the decision of Seniority and proforma fixed in the case of Shri S.P. Vora by the Chief Cashier and in case of delay the informal item 10/83 may be kept ~~open~~ open for discussion in next informal meeting.

Thanking you,

Sd/-

C. S. MENON.

True copy
Ans
Ans

Minutes of the MRU/Informal meeting held on 11.2.89
at H.Q. CGG.

.....

132. Item No. 10/83
SU.1150/68/3/83.

Condonation of break in Service
Shri S.P. Vora, Sr. Clerk,
Cash Office, BVE.

Union were requested that whether
Shri S.P. Vora, had any evidence
to prove that he was sent for
training on or before 15.5.80. If so,
he should be requested to send the
same so as to examine the case further

2h

Annexure A-IX
(17)

S.P. VORA..

H.C.

Cash Office, SVP..

Dtd.22 July,1990.

To,
The Chief Cashier,
Western Railway,
C.C.G.

(Through : Proper Channel).

Sub:- Union dealings with - Grant of Seniority/Proforma Fixation-
Shri S.P.Vora, HC Cash Office, BVP.

Ref:- Your office file No.CP/Adm/A-6975/C-804/1566, dated-----

Respected Sir,

In continuation of my earlier application dtd.22.6.90 relating to condonation of break in my service, I further, submit as under for an expeditious consideration.

2. Let me at the outset submit with deep depression and acute mental frustration that I am representing my case for over 20 years, but so far nothing substantial has emerged. I am due to retire in about 3 months. I therefore, urge that pending issue relating to seniority and the resultant fixation needs to be dealt with on a priority basis and finalised expeditiously.

3. Whereas, I am grateful to the Administration for the bestowal of condonation of breaks in service for the periods from 10.2.51 to 20.1.54 and 21.1.54 to 21.12.54 in terms of your office order No. CP/Adm./132, dtd.16.9.85, I submit that benefit of seniority and proforma fixation granted to my erstwhile colleagues viz. S/Shri V.J.Acharya and R.H.Bhatt by DRM-BVP have however not been conferred upon me.

4. In this connection, reference is invited to DAS/BVP's earlier letter No.BVP/Adm/1623/C-804/305/Vol.I, dt.11.9.87, copy enclosed for ready reference, to your office, to which no response is forthcoming, though over 2½ years have elapsed. ~~Wherein similar benefit of seniority~~ I am also endorsing a copy of DRM(E)/BVP's memo No.ED/V/9, dt.25.5.87. Wherein similar benefit of seniority/proforma fixation have been given to executive staff.

5. In view of the foregoing, I request your honour to look into my case and communicate competent approval for my seniority/fixation etc. for which I shall be grateful to your kind honour.

Awaiting an expeditious and a favourable response.

Encl:- 2.

Yours faithfully,
Sd/-

(S. P. VORA)

Copy submitted to General Secretary, WREU-Western Railway, Grant Board, it is requested to move the case with CC, CCS, so that my pending problems relating to seniority and fixation may be finalised well before my retirement on 30.11.89., copies of above 2 references are also enclosed for kind perusal and expeditious action.

TAN
A/S

23
Annexure A X
18

Date : 27-11-89

I, the undersigned Vinodray J. Acharya is at present working as a Chief Clerk under Chief Train Examiner Western Railway, Bhavnagar. I do hereby affirm and declare on oath as under.

Shri Sumanlal P. Vohra is my colleague we both have taken Training in the Telegraph Class from 01-03-1950 to 30-09-1950. The Training Class was conducted by Saurashtra Railway at Bhavnagar Para, after completion of training course we had taken a practical training under Station Master - Bhavnagar afterwards we got appointment order as a Telegraph Signaller at Bhavnagar on 10-02-1951 and Mahuva respectively.

The above facts are within my personal knowledge.

(V. J. ACHARYA)

True copy

A. M.
T. A. D.

AFFIDAVIT

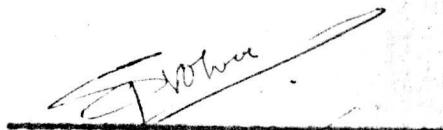
I, the undersigned, Suman Pranlal Vora, aged 57, hindu, occupation service, residing at 161 LIG Shastrinagar, Bhavnagar do hereby solemnly affirm and declare on oath as under:

That prior to independence, the railways at Saurashtra Region were managed by the Saurashtra Railways and the recruitments of railway employees were being made locally. I say that I was recruited locally by the Saurashtra Railway and was sent for telegraphic training at the verbal order of Shri V. J. Daftary the then DTS (District Traffic Superintendent) who was in charge of the said training programme and training was given free of cost.

I say that I was sent for the said training on 1.3.1950 and I had completed the training on 30.9.1950 and I was sent for practical training thereafter under the Station Master, Bhavnagarpara. I say that Shri H. N. Bhatt was the Station Master, Bhavnagarpara at that time. I say that after completion of the said practical training I was given by a telegraphic certificate on 6.2.1951 by Shri D.T.S. Bhavnagarpara on 6.2.1951. I say that I was appointed as Telegraph Signaller on 10.2.1951 under the Station Master, Bhavnagarpara.

The above facts are within my personal knowledge and I declare the same on solemn affirmation.

Solemnly affirmed by the within named
Suman Pranlal Vora at Bhavnagar on
20th September, 1989



Identified by

D. M. Vadodaria
(D. M. Vadodaria),
Advocate

*Text
Adv
Adv*

25
Annexure A-XII

(20)

WESTERN RAILWAY.

HQ OFFICE, CCG.,

No. EU/1160/68/3/83.

Dt. 28.10.89.

To,

The General Secretary,
WR EU/GTR,
BOMBAY - 7.

Sub:- Union dealing with condonation of break in service
- Shri S.P. Vohra, Jr. Clerk Cash Office, BVP.

Ref:- WRFU Inf/Item No.10/83.

Dear Sir,

With reference to the above item, it is advised that after going through the service records of Shri S.P. Vohra, it is seen that there is no entry of his previous service or of sending him for training before 15.05.1950. True ~~of~~ copy of Affidavit dated-30.09.1989 submitted by Shri S.P. Vohra, is only declaration of his and not official evidence to prove that he was in Rly. service prior to 15.05.1950. In view of the above, unless Shri S.P. Vohra, produce the original appointment letter, it is difficult for Administration to consider his request.

Yours faithfully,

Sd/-

(Mrs. Neera Khutia)
for GM.

C/- Chief Cashier, CCG for inf.

TRUE COPY
A/P
P.D.

No.ED/V/9.

DRM's Office,
Bavnagar Para.
Dt. 25/5/1987.

MEMORANDUM

Sub:-Seniority of N.G.Staff - Group "C" Staff -
Clerks.Ref:-Minutes of the Inf.Meeting held between WREU/
CPO-QSD(IR)CCG on 13/6/86, Circulated under
GM(E)CCG's Letter No.EU/1160/53/5 Vol.VIII dt.
26/6/86 - Inf.Item.No.142/84.In terms of the above, S/Shri V.J.Acharya HC/SS-BVC
and R.H.Bhatt HC/Personal Br. are to be assigned Seniority
with effect from 10/2/1951 and 19/8/50 respectively in Sc.Rs.
110/180(A). *(live)*

Accordingly, their Seniority is revised as under:-

(1) Shri V.J.Acharya HC/SS-BVC (C.C.H.G. Unit).His name is interpolated in the Category of Clerk Sc.
Rs.Rs.110/180(A) between Shri U.S.B.Dodia Sr.No.18 and Shri M.B.
Trivedi, at Sr.No.19 at Page No.5 of the Seniority list
circulated under this office letter No.ED/1030/4 of 16/6/66.(2) Shri R.H.Bhatt. HC/Personal Br.His name is interpolated in the Category of Sr.Ck.
Sc.Rs.560(R) between S/Shri V.H.Thakker at Sr.No.23
and V.N.Ghia at Sr.No.24 on Page No.5 of the Seniority list
circulated under this office letter No.ED/1030/3 dated
13/20-1-1982.Necessary correction may be made in the Seniority
list, referred to above. This should be got noted by all
concerned and representation, if any, should be sent within
one month from the date of issue of this memorandum. --
Representation received after one month will not be enter-
tained.

This has the approval of DRM.

for DRM(E)BVP.

Copy to:-

DAO/BVP
 CS/CC/HC-E, EM, ED, EE, EP, ET, SB, DAR, Settl?PC, EU, Conf.
 SH, PI, CWL, BVP.
 OS-Mech. Comm. Optg. Gen. All-LFs-FICs-TXR-TIs-CTNL P.C.R
 GM(E)-*(Signature)* W/S to h) 1/CH⁴ quoted above
 SS-BVC-BTD-MHV-JLR-JND-PBR-VRL-DLJ-DAS
 O.O.File. SS/Inc.Clerk, ED/1030/3 Vol.II
 ED/1030/4 Vol.II

P/Cases- Party Concerned.
 Divl.Secy.WREU/BVP-for inf. to HQ/INF. Item Quoted
 above.
 Divl.Secy.WRMS/BVP.

True
Ans
Ans

22
Annexure A XIV

Copy of GM(E) CCG's letter No. E (RGT) 890/B/Vol.II of 29.10.75.

Sub: Recruitment ex to class III service - Ex-Southashtra Rly. Staff - Shri M.S. Joshi, Clerk DS Office BVP.

Ref: D.O. No. FD/V/7 of 1.7.75 from DPO/BVP and this office letter of even No. dated 29.8.75.

.....
Shri M.S. Joshi, was granted an interview by GM on 1.10.75.

The issue has been re-examined as Shri Joshi was trained in Telegraphy and was given a certificate that he was qualified to undertake the duties of signaller, his case should have been considered for posting as a Tfc. Sigr. Tele. Sigr. alongwith others who were similarly situated. It is however too late to consider him for posting as a Signaller he should therefore be assigned seniority in the clerical branch only on the basis of his initial date of appointment. This decision will have ~~xxxx~~ pro-prospective effect.

.....

22/10/75

Page No. 84.

An extract of Seniority list of Ex. Saurashtra Rly-staff *Gondal*
Region as on 4.11.51.

Sr. No.	Name	Date of Birth	Date of Appointment	Remark
111.	Shri. Chandulal. M.	19.1.31	13.10.50	Appointed after 1.4.50
112.	" Arvind. C.	1.9.31	10. 2.51	--- do ---
113	" Sumanlal. P.	10.10.32	10. 2.51	--- do ---
114	" Vinodrai. J.	23.10.33	10. 2.51	--- do ---
115	" Purshottam. J.	12.12.36	30. 9.51	--- do ---
116	" Chandrakant. H.	30. 1.33	31.10.51	--- do ---

100
Tr
Am
Ad



Serial No.
D. H. Dave

1950
Notary

:: A F F I D A V I T ::

I Vinodrai. J. Acharya, Hindu Adult, residing at Bhavnagar and working as office Superintendent in the Commercial Branch of the Divisional Railway Manager's Office, Western Railway at Bhavnagar para, do solemnly affirm as under :-

AIK acquainted S DIV

That I am well acquainted with Shri Sumanlal Pranlal Vohra, working as Head Clerk in the Divisional Cashier (Pay)'s office under Divisional Accounts Officer, Western Railway, Bhavnagar para, as he worked with me since 1950. I declare the following facts on solemn affirmation.

That said Shri Sumanlal and myself joined Ex. Saurashtra Railway as Telegraph Signaller, in the year 1950, that both of us were recruited in the Telegraph Training Class conducted by the Ex. Saurashtra Railway for the period from 1.3.50 to 30-9-1950 and thereafter practical training was

(p.t.o.)

imparted to us from 1-10-50 to 6-2-51 and that both of us were appointed as Singnaller on Ex.Saurashtra Railway on 10-2-1951 after completion of successful training, on the basis of the certificates awarded to us by the ^{then} District Traffic Superintendent of Ex. Saurashtra Railway.

I declare on solemn affirmation that the facts stated above are true to the best of my knowledge and I believe the same to be true.

Solemnly affirmed on this 25th day of September 1990 at Bhavnagar.

BHAVNAGAR

DATE : 25-9-90

Identified by

S. K DAVE B.A.LL.B.

S. K. Dave
Advocate,
1st Floor, Tulsi Chambers,
Pirchhalla Street,
Bhavnagar.

Solemnly Affirmed By Mr. / Mrs.
V.H.D.L.L.B.C.C.L.L.B. Choksey
Who Is Identified By Shri.
S.K.Dave.....Advocate

Who Is Personally Known To Me
Daulibhai M. Dave
Notary
Bhavnagar District

26 SEP 1990

(25)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

O. A. NO. 503 OF 1990

S.P. Vora.....

... Applicants

v/s

Union of India & Ors...

... Respondents

WRITTEN STATEMENT

The respondents humbly beg to file written statement to the application as under:-

1. Contents of paras 1 to 4 need no reply.
2. Contents of para 5 of the application are not true and are not admitted. It is not admitted that the present application filed by the applicant for the reliefs claimed in the Original Application is within the limitation prescribed in section 21 of the Administrative Tribunals Act, 1985.

The particulars of the order against which the present application is made clearly shows that the applicant challenges the order dated 16.9.1985 passed by the Chief Cashier Western Railway, Churchgate, Bombay and the order dated 28.10.89 passed by the General Manager, Western Railway,

Om

Churchgate, Bombay and as such the present application filed on 9.11.90 is clearly time-barred having filed more than one year after passing of the impugned orders. It is submitted that the applicant has not filed any application for condonation of delay and hence the present application is liable to be dismissed on the ground of limitation only.

3. Regarding para 6.1, it is submitted that since the applicant has retired from Railway service. It is not disputed that the applicant was working under respondent No.4 at Bhavnagar para. The other averments regarding regarding authority, power and designation of the other respondents are not disputed.

4. Contents of para 6.2 are not fully true and are not admitted. It is submitted that the applicant was appointed as Tele. Signaller on Ex-Sausashtra Railway on 10.2.1951 as per Entry in his Service Sheet. It is not admitted that the applicant had received training at the Telegraph Training Class, Bhavnagar para conducted by the District Traffic Superintendent, Sausashtra Railway, from 1.3.1950 to 30.9.1950 and thereafter practical training under the Station Master, Bhavnagar Terminus Station from 1.10.50 to 6.2.1951. It is submitted that there is no positive entry in the applicant's service sheet showing the aforesaid training. The applicant has not produced any documentary evidence nor is he in possession of

26

any documentary evidence to show that he was recruited by the ~~Ex-Saurashtra~~ Ex-Saurashtra Railway and had undergone training during the aforesaid period. It is submitted that Annexure A/1 with the application, a certificate dated 6.2.1951 ~~does not indicate~~ stated to have been awarded to the applicant on successful completion of training does not indicate that the applicant had undergone the said training. The certificate only indicates that the applicant having been examined by a District Traffic Superintendent, was considered qualified to undertake the duties of a Signaller on the Saurashtra Railway. It is not disputed that the services of the applicant were terminated on 20.1.1954 as per his service record but it is denied that the said termination was effected under an excuse that the applicant was locally recruited by the ex-Saurashtra Railway after the date 15.5.1950 as alleged. It is submitted that the services of the applicant were terminated on 20.1.1954 as the applicant did not possess the minimum educational qualifications. It is submitted that the applicant was later on re-engaged and appointed ~~as~~ as Stores Issuer in D.M.E.'s Office, Okha (District Mechanical Engineer's Office, Okha) in the scale of Rs.55-85 (P) with effect from 3.12.1954. Thus, the services of the applicant remained terminated from 21.1.1954 to 2.12.1954 and he was not in the employment of

Q2

ex-Saurashtra Railway or the Western Railway. It is submitted that the services of the applicant were terminated on 20.1.54 with an excuse that the applicant was locally recruited by the ex-Saurashtra Railway after thereafter having been selected by the Railway Service Commission was appointed as a clerk in the scale of Rs.55-130() in Cash & Pay Department with effect from 28.3.1956. It is denied that since 1954 the applicant made a number of representations to the Railway Administration to consider his past services as Telegraph(Traffic)Signaller from 10.2.1951 to 20.1.1954 as alleged. However, it is not disputed that the applicant did make representation to count the period of service rendered by him viz.10.2.51 to 20.1.54 in ex-Saurashtra Railway as qualifying service for pension. It is submitted that the representation of the applicant for condonation of break in service was considered by the Chief Cashier(JA),Churchgate, who issued Office Order NO.CP/ADM/132, dated 16.9.1985 (Annexure A/2 with the application)stating inter alia that the services of the applicant were terminated by the ex-Saurashtra Railway Administration with effect from 20.1.54 in terms of GM(E),CCG's letter No.E 890/30, dated 26.10.53 as he was an unapproved candidate locally recruited by the ex-Saurashtra Railway after 15.5.1950 and his services remained terminated

from 21.1.54 to 2.12.1954, that subsequently in
 dated 20.5.54 in
 terms of Railway Board's orders/such of the
 persons, who were locally recruited by the ex-
 Saurashtra Administration after 15.5.1950 and whose
 services were terminated as they did not possess
 the minimum qualification were re-appointed as
 non-Matric clerks in the scale of Rs.55-85(P) and
 accordingly the applicant had been re-appointed as
 a clerk in the scale of Rs.55-85(P) in DME's Office,
 Okha from 4.9.54, that in terms of instructions
 contained in para 4 of the Ministry of Finance,
 Department of Expenditure Office Memo No.F 11(3)-EV
 (4)76, dated 28.2.75 the period of break in service
 of the applicant from 21.1.54 to 2.12.54 is treated
 to have been automatically condoned and his former
 service prior to break in service from 10.2.51 to
 20.1.54 is treated as qualifying service for
 pension as confirmed by APO(HQ) vide D.O.NO.E 839/
 14/8/109 of 4.12.1981 in a similar case and that
 the period of interruption itself will not be
 reckoned as qualifying service for pension and
 that the condonation of break in service and
 qualifying service for pension as stated therein
 may not be construed to have an effect in the
 relative seniority. The respondents rely on the
 said letter.

It is denied that the aforesaid decision
 dated 16.9.1985 was very late and vague as well as

ambiguous so far as the relative seniority of the applicant was concerned as alleged. It is submitted that the applicant had represented to treat his case ~~at~~ par with one Mr. M.S.Joshi and his case was accordingly examined. On examination it was found that the applicant's case did not fall in line with that of Mr. M.S.Joshi as the applicant was not holding minimum educational qualification. As regards the representations made by the applicant and the reply given by the Railway Administration, the respondents rely on the original papers as and when necessary.

The averments of the applicant regarding discussion in the Union meeting cannot be accepted on the face of it and are also not relevant for the purpose of present application. The applicant has not produced any decision in the Union meeting. The fact remains that the applicant's request for seniority from 10.2.1951 has not been accepted by the Railway Administration. The applicant has not given the details and the date of the meeting in which the matter was discussed.

The declaration dated 27.11.89 of a co-worker Shri V.J.Acharaya furnished by the applicant cannot be accepted. The affidavit/declaration of the applicant regarding training, etc., also cannot be accepted as there is no entry in the service record of the applicant that he had

28

received training at Telegraph Class, Bhavnagar para conducted by the ex-Saurashtra Railway from 1.3.1950 to 30.9.1950 and was thereafter appointed as Telegraph Signaller from 10.2.1951.

5. Contents of para 6.3 are not fully true and are not admitted. The respondents rely on the letter dated 28.10.1989 (Annexure A/12 with the application) for the contents thereof. The applicant has not produced ~~to~~ any documentary evidence in support of his say that he had undertaken training from 1.3.1950 to 30.9.1950 before his appointment in ex-Saurashtra Railway on 10.2.1951. The respondents have to rely on the service record of the applicant and the oral say of the applicant cannot be accepted in the absence of any documentary evidence. The service sheet of the applicant is with the railway administration and the railway administration acts and relies on the said service sheet. The question of employee suffering for non-availability of any record does not arise. The certificate produced by the applicant at Annexure A/1 with the application also does not show that the applicant undergone training from 1.3.1950 to 30.9.1950. It is not admitted that the railway administration has entertained several cases for grant of previous benefits on the basis of collateral evidence in the

QV

form of affidavit when relevant record was not available as alleged. It is denied that the certificate issued by the District Traffic Superintendent, Saurashtra Railway, Bhavnagar para was sufficient proof that the applicant was imparted training for six months from 1.3.1950 which entitled him for appointment as Telegraph(Traffic)Signaller from 10.2.1951. It is denied that the Railway Officials concerned who were entrusted to tackle the problem were either misguided or prejudiced. It is submitted that the Railway Board in their letter No. E(S) 50 RR, dated 20.5.1953 have decided that the candidates locally recruited by the ex-Saurashtra Railway prior to 15.5.1950 be treated as validly recruited and that they need not go to the selection by the Railway Service Commission. Thus, the locally persons, who were recruited by the ex-Saurashtra Railway prior to 15.5.1950 cannot be said to have been similarly situated. The applicant cannot compare his case with such persons. It is denied that the cases of Shri V.J.Acharya, Shri R.H.Bhatt & Shri M.S.Joshi are similar. The applicant has not furnished full details regarding date of appointment, qualification, etc. of the said employees. Annexure A/13 dated 25.5.1987 has been issued by the Divisional Railway Manager (E), Bhavnagar para revising the seniority of Shri V.J.

(9)

Acharya, Shri R.H.Bhatt in terms of the decision taken in PNM Meeting - informal Item No.142/84, which was circulated under letter dated 26.6.86. It is submitted that the Annexure A/14 which is a copy of GM(E),CCG's letter dated 29.10.75 shows that Shri M.S.Joshi was trained and was qualified to undertake the duties of a signaller and as such his case should have been considered for posting as ~~officiating~~ Traffic Signaller/ Tele Signaller along with others, who were similarly situated and in the circumstances of the case should be assigned seniority in the clerical branch on the basis of his initial date of appointment. It is submitted that the aforesaid decisions were taken on the merit of each case. As stated herein above, the applicant did not possess the requisite educational qualification. It is submitted that in terms of Railway Board's letter NO.E(S)50/RRI/1 of 20.5.83 persons, who were recruited between 15.5.50 & 30.6.50 are to be treated as validly recruited provided they possess minimum educational qualification viz. Matriculation or its equivalent. The said conditions were also not satisfied by the applicant. It is submitted that the applicant has also not produced a copy of appointment letter issued by the Ex-Saurashtra Railway appointing him as a Trainee Signaller on 1.3.1950 in support of ~~to~~ his contention

and there is no positive entry in his service-sheet with regard to training. In any case the applicant has raised his claim for seniority at a very late stage. Whatever benefit regarding condonation of break was admissible to the applicant has been granted to him by the railway administration.

6. Contents of para 6.4 are not fully true and are not admitted. The applicant has produced an extract of seniority list only at Annexure A/14 with the application without any signatures. The averments in para under reply are misconceived. As stated herein above, the applicant was locally recruited by the ex-Saurashtra Railway on 10.2.1951 but did not possess the minimum qualification. What has been stated that there is no entry in the service sheet of the applicant regarding his training from 1.3.1950 to 30.9.1950. The extract of seniority list at Annexure A/14 only shows that the applicant was appointed on 10.2.1951.

7. Regarding para 6.6, it is submitted that ~~none~~ of the grounds of challenge taken by the applicant exists.

Go (a) Regarding ground (a), respondents rely on true and proper interpretation of the provisions contained in Chapter III of IREM.

: 11 :

(b) Regarding ground (b), (c) & (d), it is submitted that the respondents rely on the relevant provisions from IREM for their true and proper interpretation. The applicant is not entitled to claim the seniority from initial date of appointment.

(c) Contents of ground (e) are not true and are denied. The service rendered by the applicant from 10.2.51 to 20.1.54 (and not upto 2.12.54) is reckoned for pensionary benefit only vide letter dated 16.9.85 and it has been clearly stated therein that the said decision may not be construed to have an effect in relative seniority. It is denied that in terms of said letter dated 16.9.85 the applicant is entitled to the benefit of seniority from 10.2.51 as a consequential right.

(d) Contents of ground (f) are not true and are denied. It is denied that similarly situated persons are granted seniority from the initial date of appointment and the said benefit has been denied to the applicant, which is in violation of Articles 14 & 16 of the Constitution of India and is discriminatory as alleged. The averments are vague. True facts are stated herein above.

(e) Regarding ground (g), the respondents rely on the ratio of Hon'ble Supreme Court's judgement in H.D.Singh v/s Reserve Bank of India

reported in 1985 (2) LLJ 1042. The said judgement is not applicable to the facts of the present case.

(f) Contents of ground (h) are not true and are denied. It is denied that the applicant has a prima facie case. It is denied that denial of seniority to the applicant from due date is arbitrary, discriminatory, irrational and contrary to rules and provisions of Articles 14 & 16 of the Constitution of India. It is submitted that the applicant who was locally recruited by the Saurashtra Railway as a signaller and was terminated and thereafter reappointed as Stores Issuer has been correctly assigned the seniority in accordance with the rules. It is submitted that the successive representations would not extend the period of limitation. There is no merit in any of the representations made by the applicant. If the applicant had any grievance against his seniority he ought to have taken appropriate proceedings before the appropriate forum within the period of limitation.

8. Contents of paras 7 & 8 need no reply.
9. The applicant is not entitled to any of the reliefs claimed in para 9 of the application.
10. No interim order is prayed for in para 10 of the application.

(31)

: 13 :

11. Contents of paras 12 & 13 need no reply.

In view of what is stated above, the application may be dismissed with costs.

VERIFICATION

I, P.R.Rathi, aged about 38 years, son of Shri C.R. Rathi, working as Chief Cashier (JA), Western Railway, Churchgate, Bombay-20 and residing at Bombay do hereby state that what is stated above is true to my knowledge and information received from the record of the case and I believe the same to be true. I have not suppressed any material facts.

Bombay

Dated: 30.8.1991

File No 15-10-91

T/S

Qm
30/8/91
Chief Cashier (JA), Western Railway, Churchgate, Bombay-20.

Reply/Rejoinder/written submissions
filed by Mr. N.S. Shevde.....
Learned Advocate for the Respondent
Copy served/ not served on the side

Dt. 18/10/91 Dy. Registrar C.A.T. (O)
Abad Bench

(32)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH AT AHMEDABAD.

O. A. NO. 503 of 1990.

I.P.Vora. Applicant;

Versus.

VOI. Respondent.

:- Rejoinder to the written statement of
the respondents :-

0/582/93
The applicant abovenamed files the following
rejoinder to the written statement of the respondents:-

1. That the applicant does not accept the contentions as stated in the written statement as fully correct. That the contentions which are not specifically admitted are hereby denied.
2. That with reference to para-2 of the written statement it is submitted that the present application has been admitted after discussion that no bar of limitation is involved since the applicant has sought for a relief to set aside the order dated 28.10.89 vide which the Railway authority (Respondent No.1) has denied to consider the seniority of the applicant for the former service although the break in service has been condoned.

Ronal
15393

3. Regarding para-3, no comments .

4. Regarding para-4 it is stated that a twisted picture of facts is given here by the respondent.

The applicant had been actually appointed from

10.2.1951 as Telegraph (Traffic) Signaller

on successful completion of training and grant of certificate there of by the then Dist. Traffic

Superintendent, Saurashtra Railway, Bhavnagar

para what is important in regard to the dispute

herein is the services rendered by the applicant

as Telegraph (Traffic) Signaller for the period

from 10.2.1951 to 20.1.1954 in the above capacity

How much was the period of training to applicant

before appointment does not come in the way of

question to be decided. The certificate of successful

completion of training as at Ann.A-I of the -

application was the basis on which the applicant was

appointed from 10.2.1951. The employment of the appli-

-cant was, however, terminated on 20.1.1954 -

declaring that he was locally recruited by the -

ex-Saurashtra Railway after the date 15-5-1950.

However all such persons who were locally

recruited and discontinued were recalled and appointed

to the service in the vacancies available on directions

vide Railway Board's letter No.E(5) SO RRI/I dated 20.5.

1953. Accordingly, the applicant was re-engaged from

3.12.1954 as stated in the application/petition. The

respondents do not dispute that the applicant's -

services were terminated on 20.1.1954 nor they deny

/ 3 /

that he was re-engaged from 3-12-1954. The period of break in service was from 21-1-1954 to 2-12-1954. The respondents have asserted to have condoned the break in service from 21.1.1954 to 2.12.1954 and former service from 10.2.1951 to 20.1.1954 treated as - qualifying service vide letter on CP/Admn/132 dated 16.9.1985 (Annex.A-II) of the application) . Non-entry of the training and former service from 10.2.1951 to 20.1.1954 in the service sheet does not debar applicant from the benefit of seniority from 10.2.1951. It is not fault of the applicant.

5. Regarding para-5, the applicant submits that, as stated above, only former service of the applicant from 10.2.1951 to 20.1.1954 is pertinent and not the training period to decide the question in this application. That, as per letter No. EU/1160/68/3/83 dated 28.10.89 (Annex.A-XII) of the application), the respondents are ready to consider the request for seniority for the past service from 10.2.1951 to 20.1.1954 provided - official evidence is furnished by the applicant. The plea of the respondents is that they have no entry in the service-sheet or record to verify the previous service of the applicant. This is wrong and unsound excuse. The applicant has already - produced an extract from the seniority List of Ex-Saurashtra Railway staff as on 4.11.1951 (Region-wise) at Annex. A-XV of the application. On -

integration of Ex-estate, Railways circulation of such seniority lists was necessitated. The seniority list clearly indicates the date of appointment of the applicant to be 10.2.1951. This seniority list as in the book-form, prepared under the instructions of the Railway Board and very important document. The respondents cannot discard their own record. On one hand, the respondents have considered the past service of the applicant from 10.2.1951 to 20.1.1954 and on the other hand, they have refused to give the benefit of seniority. This is quite contrary to the law. Seniority among the holders of a post in a grade is governed by the date of appointment to the grade. For example, Shri Vinodrai J. Acharya who is at Sl.No.114 in the said seniority list is favoured with the grant of seniority while the applicant who is at Sl.No. 113 is glaringly discriminated. There was no entry in the service-sheet of Shri Acharya yet in his case benefit of seniority of the service is extended. A collectral declaration from Shri Acharya who had undergone training of Telegraph (Traffic) Signaller from 1-3-1950 - along with the applicant was also submitted to the department but it has utterly failed to look into the factual and legal aspects of the case. As a matter of fact, the applicant was inducted/recruited in the Traffic Department of Ex-

/ 5 /

Saurashtra Railway before 15-5-1950 and was imparted training from 1-3-1950 to 30-9-50 of the Telegraph Training Centre, and practical training thereafter under the station Master, Bhavnagar Para and appointed in service on 10.2.51. It is the period of actual service rendered by the applicant from 10.2.1951 which is to be taken into account ~~from 10.2.1951~~ - which is to for grant of seniority and training period has no impact.

6. Regarding contents in para-6 of the written statement, the applicant most humbly clarified that the said seniority list is in a complete book-form therefore, only extract from the respective page No. 34 is produced by the applicant at Annex. A-XV of the application. The respondents do not deny that such a seniority list was not notified. The qualification is not relevant to the point of issue. The applicant has been called back and appointed and his past service considered condoning the break.

7. Regarding contents in para-7 the applicant maintains his submissions and statements in - the original application and rely upon documents furnished and grounds adduced. That according to rules of seniority contained in Chapter-III of

/ 6 /

the Indian Railway Estt; Manual, seniority counts from the date of appointment and as per rules regarding condonation of break in service in Chapter-XIII , the service prior to the break condoned is to be treated as continuous with the service after break for all purposes. Therefore, there is reason to say that kill-treatment meted out ~~to~~ the applicant is clear and it is violation of the provisions of Articles - 14 & 16 of the Constitution of India. Unless irregularity is set - right, the applicant will have permanent irreparable loss.

8. Regarding para-8, no comments.

9. That in any case, the application of the applicant raised substantial questions of law as well as facts which require to be considered by this Honourable Tribunal. The contentions of the respondents are not tenable in law. The applicant is entitled to the reliefs prayed for.

Ahmedabad.

Dated:-

(Applicant)

-: Verification :-

I, the applicant do hereby verify and states that the above facts are stated in the above application are true and

(35)

.. 7 ..

and information and belief and I believe the
same to be true.

Solemnly verified on this _____ day

of February, 1993 at _____.

Ahmedabad. X

Date: 1993.

Identified by me

Advocate's Clerk.

✓
Copy/Regoinder/written application
filed by Mr. Om A. Pandit
Learned advocate for petitioner/
Respondent with seal - AL
Copy served/sent to _____

Dh. 15/3/93 15/3
Dy. Registrar C.A.T. (J)
A'bad Bench
Att. Record

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

O/A/A/MA/RA/DA No. 355/94 in 04/503/90

MR S. P. Vohra
APPLICANT (S)

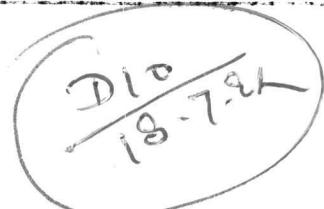
MR G. A. Pandit
COUNSEL

VERSUS

U.O.I. & B.R.

RESPONDENT (S)

COUNSEL

Date	Office Report	ORDERS
	Amendment	

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

M A No 355 OF 1994

in

O A No. 503 OF 1990

D10
18-7-94

S P Vohra ----- Applicant

V/ s.

Union of India & Ors ----- Respondents

Application for amendment.

1) The following may be added after 6.4 as 6.5.

6.5. The applicant submits that he is entitled to his seniority and promotion thereunder on the basis of his seniority shown at Annexure A-15 at page 28 where he is shown at Sr. No. 113 and Mr. V. J. Acharya is shown at Sr. No. 114 and both have the same appointment date on 10-2-1951. Mr. V. J. Acharya retired recently as Office Superintendent scale Rs. 2000-3200 (RS) from the Office of Divisional Railway Manager, Bhavnagar Para. The applicant submits that Mr. V. J. Acharya has received arrears on the basis of seniority from the date shown in his seniority list and the amount was received by him. It is therefore submitted that the applicant should have been given the benefit from joining the service i.e. 10-2-1951 for the purpose of pension is denied his right to seniority and promotion thereunder, though the person similarly situated has been considered for the due promotion from time to time and he has

Filed by Mr. Advocate
Lokendra Singh
With stamp: 20-12-1994
Received: 20-12-1994
Date: 20-12-1994

Chaffer Dy. Registrar C.A.T.U
Ahmedabad Bench

20-12-94

retired as Office Superintendent and therefore, if the representation made to the respondents were considered at the proper time he also would have received the same promotion on the basis of his entitlement and would have retired as Office Superintendent. The applicant submits that it is an administrative error of a very clear nature that though it is mandatory upon the Railway Administration ^{not} to maintain the records and are not in a position to refer to ~~it~~ the representation of the applicant by the relevant time. It is therefore submitted that the applicant can not punish all the gross error on the part of the department by denying his right by seniority and promotion which has to be calculated, both for the purpose of payment as arrears as well as pensionary benefit on the basis of accrued promotion and seniority in the scale of Rs. 2000-3200 (RS). The applicant therefore, submits that the action in granting the promotion on the basis of seniority treating in differential to them his junior amongst to be violative of Article 14 & 16 as is contrary and therefore, the Hon'ble Tribunal may direct the respondents to make payment of arrears calculating on the basis of payment of promotion and salary to Mr. Acharya on the due date as he would have

- 3 -

g ot it. The applicant submits that he could not appear for selection as a mistake on the part of the Railway Administration for not considered the representation from time to time, which has resulted into gross injustice to the applicant.

2) The applicant therefore, prays that;

(A) Your Honour be pleased to allow this application and the above para may be added in the main application as amendment to para 6.5.

(B) Your Honour be pleased to issue direction to the respondents railway administration to consider his case on the basis of seniority and give him all the consequential benefits.

VERIFICATION

I, S P Vohra, aged adult, working as Head Clerk, Western Railway, Bhavnagar, do hereby verify that what is stated hereinabove is true to the best of my knowledge and belief and I believe the same to be true and I have not suppressed any material fact.

Ahmedabad.

Dt:



(Deponent)

Identified by me.

(G A Pandit)
Advocate for the Applicant.

Submitted,

Application has been scrutinized and found to be
entirely correct and proper and is therefore approved
in oeces. May be placed before Hon'ble Bench for
necessary oeces.

bottom of equatorial part of shelf and extending east

~~coocelap~~
jlotan

abhaag-

11-7-9

~~so (J)~~

~~DR (CJ)~~

1999-2000, Mark 1999 (9)

• देशी बाजार के द्वारा बनाए गए विभिन्न विषयों की विवरणीय विवरणों का एक संग्रह है।

1995-03-22 15:45:00 1995-03-22 15:45:00

On March 10, 1997, the Board issued a decision in Case No. 96-1000.

flame-colored C. maculata, which nests

John Hancock and his handwriting on every page and

1930-1931. The author wishes to thank the Director of the Royal Ontario Museum for permission to publish this note.

ON THE BOUNDARY

1930-1931 (Continued)

In the Central Administrative Tribunal at Ahmedabad

O.A. No- 503 of 1990

S.P.Vora

..Applicant

V/s

Union of India & Ors

..Respondents

Written Statement on behalf
Respondents to amended O.A.

Respondents humbly beg to file written
statement to the amended O.A. as under :-

1. The respondents have already filed written
statement to O.A. No. 503/90 earlier. The said W.S.
may be treated as part of this W.S.

2. Contents of para 6.5 are not fully true
and are not admitted. It is denied that the applicant
is entitled to seniority and promotion thereunder
on the basis of Annexure A/15 (Page 28 with O.A.)
wherein applicant is shown at Sr. No. 113 and Mr.

V.J.Acharya is shown at Sr. 114 as alleged. It is
submitted that annexure A/15 is not the seniority
list of ex-Saurashtra Railway Staff of Gondal Region
as on 4.11.51 but is only an extract from the
alleged seniority list. Applicant has not produced

Present
before
Hon'ble
Jt M.N. Valsarai

10/11
0528135

the alleged seniority list but has only produced an extract which is not authenticated. It is denied that the said Mr. V.J.Acharya has received arrears on the basis of seniority on the date shown in his seniority list. It is denied that the applicant, therefore should have been given the benefit from joining service i.e. 10.2.51 for the purpose of pension, right to seniority and promotion thereunder but the same is denied to him as alleged.

It is denied that the said Mr. V.J.Acharya and the applicant are similarly situated in all respects.

It is denied that the representation made by the applicant are not considered at proper time. It is submitted that Mr. V.J.Acharya was not working in the Office of the Chief Cashier (JA), Western Railway, Churchgate, Bombay 20 but was working ~~as~~ in the Clerical cadre in the Divisional Office, Bhavnagarpara whereas the Applicant was working under Chief Cashier (JA) Churchgate. The cadres in which the applicant and said Mr. V.J.Acharya were working were entirely different and unrelated. The applicant cannot compare his case with said Mr.

V.J.Acharya as both were working in different departments having different seniority units. It is submitted that benefits, if any, received by Mr. V.J.Acharya due to promotions within his

2

department have no bearing on promotions of the applicant within a different department and cannot be compared or equated with each other. It is denied that the applicant has been punished for gross error on the part of the department by denying his right to seniority and promotion which is to be calculated for the purpose of payment of arrears and pensionary benefits on the basis of accrued promotion and seniority in the scale of Rs. 2000-3200 (RP) as alleged. There is no gross error on the part of the respondents and the applicant is not at all punished by the respondents. It is submitted that the applicant has been assigned proper seniority position in the Clerical cadre of Cash & Pay department and ~~xx~~ no promotions are denied to him. The applicant has been considered for promotion in Cash & Pay department on the basis of his seniority and has also been promoted from time to time according to rules. The applicant has not been denied any promotion within his Unit. It is submitted that promotions in different Units depend inter alia upon the seniority of the persons in respective cadres/ Units and there is no violation of Articles 14 and 16 of Constitution of India. The applicant is not meted out with any differential treatment. The applicant is not

2

: 4 :

entitled to payment of any arrears calculated on the basis of so called promotion and salary on the basis of relevant dates of promotions of Mr. V.J.Acharya and salary drawn by him. It is denied that the applicant could not appear for selection as a mistake on the part of the respondents administration as alleged. It is submitted that the said Mr. V.J. Acharya working as Head Clerk under Station Superintendent Bhavnagar in the scale of Rs. Rs. 1400-2300(RP) was assigned seniority between Shri U.R.Dodia(Retired) and Shri M.B.Trivedi and as such became eligible for proforma fixation of pay in terms of H.Q. Office letter dated 9.10.64 and accordingly his pay was fixed with reference to his junior Mr. M.B.Trivedi and was eligible to draw arrears in the scale of Rs. 330-560(R) and Rs. 425-700(R) from actual date of promotion as Sr. Clerk and Head Clerk respectively. The said orders are not applicable to the case of the applicant who is serving in different Seniority Unit. It is submitted that the applicant has already granted benefits by the respondents which rules were admissible to him under the ~~order of the~~ ~~respondents~~ by order dated 16.9.85 at Annexure A/2 with the application.

3

(4)

: 5 :

In view of what is stated above the application may be dismissed with costs.

Verification

I, Hemant Godbole, age about 38 years, son of Shri Bhaskar Godbole, working as Chief Cashier (JA) Western Railway, Churchgate, Bombay 20 and residing at Bombay do hereby state that what is stated above is true to my knowledge and information received from the record of the case and I believe the same to be true. I have not suppressed any material facts.

Bombay

Dt. 4.9.1994

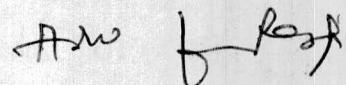
7/2 5.9.94



Chief Cashier (JA)
Western Railway,
Churchgate, Bombay



Hemant Godbole



Am. for post

47

In the Central Administrative Tribunal Bench
at Ahmedabad.

O.A.No: 503 of 1990.

S.P.Vora ... Applicant.

V/s.

Union of India and Oths. ... Respondents.

Rejoinder on behalf of the applicant.

Rejoinder on behalf of the applicant
above-named to the written statement dated 4.9.94
(filed on 5.9.94) to the amended OA by the res-
pondent Railway Administration is as under :-

1. Para-1 of the written statement does not require any comments.
2. Para-2 of the written statement : The applicant does not accept the contentions as stated in this para as fully correct. The contentions which are not specifically admitted are hereby denied. The applicant maintains that he is entitled to seniority from 10.2.1951, the date of his appointment. The respondents do not dispute applicant's appointment on 10.2.1951 and having rendered services by him from 10.2.1951 to 20.1.1954. This is evident from respondent's letter dated 16.9.85 which has been produced with

Recd copy

MS

Aw J. Kapoor

29-11-94

Present before
Hon'ble
Mr. B. A. Patel

Rejoinder
ca 10

29-11-94

P.T.O.

the original application Annex marked A.II. The period from 10.2.51 to 20.1.54 has already been treated as qualifying service. The applicant was improperly discontinued from 21.1.54 to 20.1.54 and this break has also been condoned vide the said letter dated 16.9.85. Since the period from 10.2.51 to 20.1.54 is reckoned as qualifying service, it is unquestionable that the applicant held a substantive post. In other words, the services of the applicant from 10.2.51 were not adhoc or fortuitous. Appointment of a trained and qualified candidate cannot be said to be stop-gap or officiating. That according to Indian Rly. Estt. Manual, Rule 302, seniority in initial grade is governed by date of appointment. There was a reason why applicant produced an extract from seniority list of ex-Saurashtra Railway. This was published in a voluminous book because the erstwhile Bhavnagar, Gondal, Junagadh and Porbandar State Railways amalgamated and seniority position of the employees was made known. This book was not supplied to individual employee, therefore, its production in a full shape with the original application was impossible. While it contains dates of entry into service of each and every employee, it shows persons who have been given seniority from date of appointment. Shri V.J.Acharya who is at Sl.No.114 and whose case is identical as that of the

applicant has been allowed seniority from 10.2.51, the date of initial appointment, despite break. The applicant is being denied this benefit though he is senior and is at Sl. No.113. The plea of the respondents that Shri V.J.Acharya was in another seniority group (as he later was) has no relevancy. What is material is that the applicant was similarly situated as Shri V.J.Acharya was and as such he was eligible to the seniority from 10.2.51. The applicant in support of the foregoing submissions quote the following judgments, the portions of which apply to his case in addition to those already cited in the original application.

(i) ATR 1992 (I) CAT, 744,

S.N.Chakraborty & Oths. Vs. UOI & Oths.

(ii) ATR 1988 (I) CAT, 490

V.R.N. Iyer Vs. the Secretary to the Govt.of India, Deptt.of Atomic Energy, Bombay & Oths.

3. The applicant says and submits that by treating the period from 10.2.51 to 20.1.54 of applicant as qualifying service, the respondents considered one part and left the other part, namely, grant of seniority untouched. On pursuance, the final outcome was ~~vide~~ H.Q. office letter dated 28.10.89 (Annexure A.XII of OA). The seniority for the period in question 10.2.51

20.1.54 has been denied on the ground "Record for recruitment to Railway service prior to 15.5.1950 is not furnished by the applicant which can be taken as official evidence". The applicant was recruited on 1.3.50 and was appointed to service on 10.2.51. A certificate No.14 dated 6.2.1951 of successful training as Telegraph Signaller which was awarded by the Dist. Traffic Supdt., Bhavnagar was already furnished by the applicant alongwith his claim. The six months training from 1.3.50 to 30.9.50 was imparted at the Telegraph Training Class, Bhavnagar Para, and there-after practical training at Bhavnagar Terminus from 1.10.50 to 6.2.51 before being applicant was appointed. The Railway authorities insist on production of old record by the applicant. They have put forward an excuse of non-availability of record which is against the law settled by judgments. (ATR 1991 (I) (AT 300, Swarndipsingh Ratra Vs. UOI & Oths). That whatever record was available had been submitted by the applicant, important among them was certificate regarding training. Not only this but a collateral evidence also (affidavit of a fellow-workman Shri V.J.Acharya) had been attached. It is the directive of the Rly. Board vide letter No. E(NG) 60 PTN-I/3 dated 28.3.60 that in case of loss or destruction of service

record, collateral evidence of the contemporary employee may be relied upon. The respondents ought to have considered all this before wrongfully depriving applicant of his right of seniority and causing discrimination. The applicant has retired and there will be no upsetting of anybody.

4. In the above view of matter, the claim of the applicant in the original application and amendment thereto may be decided on merits.

Ahmedabad.

Date: -11-94.


Applicant.

VERIFICATION.

I, S.P. Vora, resident of Bhavnagar, retired Head Clerk of the Western Railway, do hereby verify the contents of paras 1 to 4 to be true to my knowledge and belief. I have not suppressed any material fact.

Ahmedabad.

Dated: -11-1994.


(Applicant)

MOOT/261/98

N. S. Shinde
Served by Mr. *N. S. Shinde*
Sworn Advocate for Petitioners
and Counsel for the Respondents
Copy served/sent to
other side

*12/23/98, by Justice G.J.S.
Ahd. Sardar*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

M. A. NO. 533 OF 1998

IN

O. A. NO. 503 OF 1990

Union of India & Ors. Applicants
	(Original respondents)
V/s	
S.P. Vora. Opponent (Original applicant)

APPLICATION FOR
EXTENSION OF TIME.

The applicants herein—original respondents

submit as under:-

1. That the original applicant filed O.A. NO. 503/90 praying for quashing and setting aside letter No. EU/1160/68/3/83, dated 28.10.1989 of the respondent railway administration as arbitrary, unconstitutional and violative of Articles 14 & 16 of the Constitution of India and for a declaration that the applicant is entitled to seniority and consequential benefits such as pro forma fixation of pay, promotion from due dates, etc., taking initial

date of appointment as 10.2.51 which fact is accepted by the respondent railway administration vide letter dated 16.9.85, etc.

2. The respondents filed written statement to the application and resisted the same.

3. The said O.A. NO.503/90 was heard and decided by this Hon'ble Tribunal on 27.11.97 allowing the said O.A. and directing the respondents to consider the past service of the applicant from 10.2.51 onwards not only for the purpose of pension but also for the purpose of refixation/revision of seniority in the seniority unit to which he belongs with a further direction that if the applicant is found entitled to any enhancement in his pay or promotion as consequential benefit, the same shall be notionally fixed from the relevant dates but the arrears shall be paid from a date one year prior to the filing of the said O.A. with a further direction that the said order shall be implemented within three months from the date of receipt of copy of order as to no order as to costs.

4. The copy of the said order was sent by the original applicant to the Chief Cashier (JA), Western Railway, Churchgate, vide his letter dated 16.12.97 which was received by him on 23.12.97. Similarly, advocate for the respondents was supplied copy of

order on or about 2.12.97. He communicated the decision by letter to Churchgate and thereafter forwarded copy of order.

5. Computing the period of three months from 23.12.97, the period of three months expires on 23.3.98. The respondents have already filed an application for review along with application for condonation of delay and some time is likely to be taken in deciding the said applications. Hence this application.

6. The applicants herein-original respondents, therefore, pray that:-

(A) Hon'ble Tribunal may be pleased to grant this application and extend period for compliance by a further time of three months.

(B) Any other order may be passed that the Hon'ble Tribunal deems fit and proper.

VERIFICATION.

I, Smt. Reema Rangam, age about years, working as Chief Cashier (AB) in Western Railway, Churchgate, Mumbai 20, do hereby state that what is stated above is true to my knowledge and information received from the record of the case and I believe the same to be true. I have not suppressed any material facts.

Mumbai

Dated: 21.3.1998

Rangam
CHIEF CASHIER (A)
Western Railway
Churchgate
Bombay 20

Western
Reema Rangam