

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

XXXXXX XXXX XXXX XXXX

A H M E D A B A D B E N C HO.A. No. 504 OF 1990
~~XXXXXX~~DATE OF DECISION 20/02/1991

Shri Sukhdevbhai Ratilal Nayak, Petitioner

Shri G.A.Pandit, Advocate for the Petitioner(s)

Versus

The Union of India and Others Respondent

Shri N.S.Shevde for Shri B.R.Kyada Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.H.Trivedi : Vice Chairman

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

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

Shri Sukhdevbhai Ratilal Nayak,
22, Nardipurnagar Co-Op. Hsg. Society,
Near Market Yard,
Kalol, (Dist. Mehsana).

...Applicant.

Versus

1. Union of India, notice to be served through General Manager, Western Railway, Churchgate, Bombay - 400 020.

2. Divisional Railway Manager, Western Railway, Kothi Compound, Rajkot.

3. Senior Divisional Engineer - II, Western Railway, Rajkot.

...Respondents.

Coram : Hon'ble Mr.P.H.Trivedi : Vice Chairman
Hon'ble Mr.R.C.Bhatt : Judicial Member

ORDER

Date : 20/02/1991

Per : Hon'ble Mr.R.C.Bhatt : Judicial Member

Heard Mr.G.A.Pandit and Mr.N.S.Shevde the learned advocates for the applicant and the respondents. This original application under Section 19 of the Administrative Tribunals Act, 1985, has been filed by the applicant challenging the order dated 6.4.1990, produced at Annexure-A, and for the direction to the respondents to allow the applicant to work as Gate Keeper, Katosan Road and also directing the respondents to get full back wages to the applicant. The applicant has alleged in the application that he had filed O.A./284/88, which was decided by this Tribunal,

on 31.1.1990, with a direction referred to the respondents to treat this application as a representation made by the applicant and after giving a reasonable opportunity of hearing to the applicant the same be decided within a period of one month from the date of the order. It is not in dispute that respondent No.2, has communicated the said representation and a speaking order to the applicant passed on 5th March, 1990. It is the case of applicant that he was serving as gate keeper at Katosan Road and suspension order dated 18th November, 1983, was passed for not wearing uniform supplied by the Administration. It is alleged by the applicant that he was then asked to work and join as gang man. According to him, **suspension was revoked** later on and he worked as gatekeeper till 13-8-1984, but thereafter he was not continued as a gate keeper and he was asked to work as a gan man which action is illegal. We have heard Mr.G.A.Pandit and Mr.B.R.Kyada. We have perused the speaking order dated 5th March, 1990. It is very clear that the applicant was heard on all points as directed by the Tribunal in presence of his counsel. The grievance of the applicant has no substance because it is already mentioned in the speaking order that the gang man and the gate keeper are borne on common seniority and by posting the applicant as a gang man he is not denied any privilege. He is entitled to the same pay and he maintains his seniority. It is purely an ~~administrative~~ prerogative where the applicant is to be posted and the consent of an employee is not necessary nor any notice is to be given, if his pay and seniority are not disturbed. It is not the case of the applicant that by serving as gang man

his seniority is adversely affected or is denied any privilege. More over this order directing him to report for his services as gang man is not a punishment. There is no ground for the applicant for filing this application. We have perused the speaking order in detail and we find that the action of the respondents could not be considered as illegal, arbitrary, or violative. More over it is not indispute that he was originally taken as a gang man and it is his duty to report where he is directed to go. The action of the applicant not to join as a gang man cannot be considered as a just and proper in the circumstances. Learned counsel, at this stage, has submitted, that he has instructions from the applicant who is present in the Court room, to withdraw this application. We permit him to withdraw the application accordingly we pass no order as to costs. Application stands disposed of.

Renu

(R.C.Bhatt)
Judicial Member

P.H.Trivedi

(P.H.Trivedi)
Vice Chairman