

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DEXX

AHMEDABAD BENCH

O.A. No. 202 of 1991
Case No.

DATE OF DECISION 17.7.1991

Mahesh Devji

Petitioner

Mr. P.H. Pathak

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Mr. B.R. Kyada

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.M. Singh Administrative Member

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

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes

2. To be referred to the Reporter or not? No

3. Whether their Lordships wish to see the fair copy of the Judgement? No

4. Whether it needs to be circulated to other Benches of the Tribunal? No

Mahesh Devji,
C/o. Magan Jivraj (Valveman),
Hapa Railway Colony,
Quarter No. A/B 175,
Hapa, Post Dhuvav,
Dist. Jamnagar

: Applicant

(Advocate - Mr. P.H. Pathak)

Versus

1. Union of India,
Through :
Divisional Rly. Manager,
Western Railway,
Kothi Compound,
Rajkot.
2. Asstt. Engineer,
Western Railway,
Kothi Compound,
Rajkot.
3. Inspector of Works,
Western Railway,
Hapa.

(Advocate - Mr. B.R. Kyada)

• Respondents

CORAM : Hon'ble Mr. M.M. Singh

• Admv. Member

Hon'ble Mr. R.C. Bhatt

: Judicial Member

O.A./202/91

ORAL = ORDER

Dated : 17.7.1991

Per : Hon'ble Mr. M.M. Singh : Administrative Member

The applicant, in this original application, under section 19 of the Administrative Tribunals Act, 1985, challenges the action of respondents in issuing order dt. 22.4.1991 appointing the applicant to Gang No. 49 against a clear vacancy in pay scale Rs. 775-1025 against existing vacancy after applicant cleared his screening, ^{and} was found suitable for such appointment.

2. Looking to averments, substance is that ^{the} applicant is working as Khalasi and has right of promotion in the

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cadre of Khalasi which is ignored by the respondents. The question of right of the applicant for promotion in the cadre of Khalasi and what is the channel entry of promotion is not much relevant in this application because it is against a specific order of promotion of the applicant which promotion the applicant does not want to accept. It is also seen that by Annexure A-2 dt. 4.5.1991, the applicant had represented against such promotion.

3. It is not compulsory for a Government servant to accept his promotion. He can forego his promotion for a specific period provided under rules or even for ever in accordance with the rules. When the applicant does not want to accept promotion, the respondents shall have to leave him in the rank from which he was promoted and which promotion the applicant does not want to accept.

4. We have heard Mr. P.H. Pathak, learned counsel for the applicant and Mr. B.R. Kyada, learned counsel for the respondents. Mr. Kyada sees no difficulty in allowing the applicant to remain in the rank from which he was promoted and that the order of promotion can be withdrawn for ever so far as the applicant is concerned.

5. In view of the above accepted position between the learned counsel for both parties, we do not see any scope or necessity for issuing notice and inviting procedure of reply and rejoinder. The application is admitted and finally decided with our following order.

6. The respondents are directed not to implement the order No. E/840 dated 22.4.1991 of promotion of
M. M. L.

the applicant to the rank of Gangman so far as the applicant Shri Mahesh Devji figuring at serial No. 6 of the order is concerned. There are no order as to costs.

R C Bhatt

(R C Bhatt)
Judicial Member

M. M. Singh

(M M Singh)
Admv. Member

*Mogera

Mahesh Devji,
C/o. Magan Jivraj (Valveman),
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Western Railway,
Hapa.

: Respondents

(Advocate - Mr. B.R. Kyada)

CORAM : Hon'ble Mr. M.M. Singh

: Admiv. Member

Hon'ble Mr. R.C. Bhatt

: Judicial Member

O.A./202/91

O R A L - O R D E R

Dated : 17.7.1991

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(R C Bhatt)
Judicial Member

(M M Singh)
Admv. Member

*Mogera