

Seniority (No)

CAT/1/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

~~NEWXDXLXH~~

O.A. No. 252 of ~~198~~ 1991
~~XAXXNGX~~

DATE OF DECISION 9.10.1991

Shri I.S. Anand Petitioner

Shri A.M. Saiyed Advocate for the Petitioner(s)

Versus

Union of India & ors. Respondent

Shri N.S. Shevde Advocate for the Respondent(s)
Shri K.K. Shah

CORAM :

The Hon'ble Mr. K.A. Raman : Member (A)

The Hon'ble Mr. R.C. Bhatt : Member (J)

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?

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Shri Inderjitsingh Sevasingh Anand,
Fitter, Grade I, at
Senior Electrician (Repair Shop)
Western Railway,
AHMEDABAD-380 002

: APPLICANT

(Advocate: Shri A.M. Saiyed)

VS.

1. Union of India, through
The General Manager,
Western Railway,
Churchgate,
BOMBAY -400 020
2. The Divisional Railway Manager,
Vadodara Division,
Western Railway,
Pratapnagar,
VADODARA-390 004.
3. The Senior Divisional Elec. Engineer,
(Power) Vadodara Division,
Western Railway,
Pratapnagar,
VADODARA -390 004.
4. Shri Upendraprasad M.
H.S. Bench Fitter, Grade II,
C/O Senior Electrician (Repair Shop) Western Railway,
AHMEDABAD -380 002.

: RESPONDENTS

(Advocate: Shri N.S. Shevde
Shri K.K. Shah)

CORAM : Hon'ble Shri K.J. Raman

: Member (A)

Hon'ble Shri R.C. Bhatt

: Member (J)

O R A L - O R D E R

O.A. No. 252 of 1991

Date : 9.10.1991

Per : Hon'ble Shri K.J. Raman

: Member (A)

This application under Section 19 of the
Administrative Tribunals Act, 1985, has been filed by the
applicant who is at present ^a Highly Skilled ~~a~~ Fitter Grade-I
[^] Ahmedabad
working at the Electrical Repair Shop, The 4th respondent
Shri Upendraprasad is another Highly Skilled Grade-II

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Fitter in the same establishment. By the impugned order dated 25.6.1991, (Annexure A-1) the existing seniority between the applicant and Shri Upendraprasad has been altered. Shri Upendraprasad has been declared to be senior to the applicant in the grade of Fitter Grade-III on the ground that on transfer to the present establishment, Shri Upendraprasad had reported on duty on 27.3.1967 and the applicant on 12.6.1967. Thus, Shri Upendraprasad has been given further benefits accordingly in the higher grades. The main grievance of the applicant in this case is that this alteration in his seniority vis-a-vis Shri Upendraprasad has been done without giving the applicant ^{an} ~~the~~ opportunity to represent his case for retaining the existing seniority. He has therefore filed this application seeking following reliefs :-

- 1) 1.. To declare that the impugned order dated 25.6.1991 is irrational, arbitrary, injurious, discriminatory, illegal, unenforceable at law and inconsistent with the principles of natural justice and to quash it in toto. The respondents authorities be refrained from reverting the applicant from his present post on the basis of the said order.
2. To declare that no alteration in the Seniority position of applicant and respondent No.4 be made which is current since the year 1967 and which will be bad from the point of law.
3. To declare that no change in the seniority position of the applicants and respondent No.4 as in impugned order dated 22.3.1991 can be made by the respondent authorities and the said order is still in force and operative.
4. To grant any more relief or reliefs which the Tribunal deem just and expedient including costs of and incidental to this application. "

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2. The present application is ^{not to be} ~~to be~~ admitted. Ad-interim order dated 11.7.1991 has been issued against implementation of the impugned order referred above. The official respondents 1,2 and 3 have not filed their reply so far. Shri Upendraprasad, respondent No. 4, has filed ^a reply resisting the claim of the applicant.

3. Learned counsel for the applicant is present and is heard. Learned counsel for respondent No.1, 2 and 3, Shri N.S.Shenvde, also present. Shri K.K.Shah, learned counsel representing respondent No.4 is also present.

4. We have heard the learned counsel for the parties today.

5. Learned counsel for respondent No. 1,2 and 3, submits that the concerned authorities in the Western Railway are prepared to give an opportunity to the applicant for representing against the change in the seniority as given in the impugned order. Learned counsel for respondent No.4 also agreed to the adjudication of the seniority between the applicant and respondent No. 4 being done after giving notice to both the parties, and after hearing them.

6. Learned counsel for the applicant urged that, when the seniority may be redetermined as suggested above, the existing position of the applicant should be protected and he should not be reverted. In other words he wants that no effect be given to the impugned order dated 25.6.1991.

7. We have carefully considered the position in this case. From the relief prayer it is clear that the grievance of the applicant is regarding the impugned order dated 25.6.1991. It is clear that this order has been issued without following the principles of natural justice, since

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no notice was given to the applicant against the reversal of the existing seniority. In this view of the matter, the validity of the impugned order dated 25.6.1991 cannot be sustained.

8. We also find merit in the request of the learned counsel for the respondents that the matter should be allowed to be adjudicated by the Departmental Authority according to law.

9. We formally admit this application. We allow the same, and pass following orders:-

- (i) The impugned order dated 25.6.1991 is set aside.
- (ii) The competent authority may redetermine the inter se seniority between the applicant and the respondent No.4 and for this purpose, shall issue a proper notice to both the persons concerned, regarding the proposed change in the seniority and the grounds thereof. Such authority shall after hearing both the parties then decide the issue in accordance with the law.
- (iii) After deciding the matter, a speaking order shall be issued to both the persons concerned.
- (iv) It is thereafter open to either of the parties, if they feel aggrieved, to avail of further remedy available under the law.
- (v) It is made clear that the question of reversion of the applicant in this case cannot arise so long as the present inter se seniority subsists, in view of the above orders passed by us.
- (vi) There will be no orders as to costs.



(R.C. BHATT)
Member (J)



(K.J. RAMAN)
Member (A)