

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 352 OF 1991

~~**P.A.NO.**~~

DATE OF DECISION 11.12.1997

Palani Rangaswamy & Ors. Petitioners

Mr. Y.V. Shah Advocate for the Petitioner [s]
Versus

Union of India & Ors. Respondent s

Mr. A.S. Kothari for official Resp. Advocate for the Respondent [s]
Mr. P.H. Pathak for R-4 to R-16

CORAM

The Hon'ble Mr. V. Ramakrishnan, vice Chairman.

The Hon'ble Mr. P.C. Kannan, Judicial Member.

JUDGMENT

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

1. Palani Rangaswamy
2. Selvraj Duriaswamy
3. Umashanker S
4. Chettarsingh A. Zala
5. Ishwer Shanker
6. Laxmansingh Shivsingh
7. Shambhu Khoda
8. Jagdish Chunilal
9. A. Thangvel
10. Jethaji Punjaji
11. Pankajkumar Himmatlal
12. P.A. Parmar
13. M.D. Jshak

Senior Cleaners
Loco Foreman
Western Railway,
Sabarmati, Ahmedabad.

..... Applicants.

(Advocate: Mr. Y.V. Shah)

versus.

1. Union of India, through
The General Manager
Western Railway,
Churchgate, Bombay-20.
2. Shri R.L. Goel
Divisional Mechanical Engineer(L)
Western Railway,
Rajkot.
3. Shri S.K. Kapoor,
Loco Foreman
Western Railway,
Sabarmati, Ahmedabad.
4. Bhagvati Prasad
5. Dilip Shivram
6. Dilip R. Patil
7. Bharat S. Chauhan
8. Sanjivkumar S
9. Narendra H
10. Ravindran K. Nair
11. Ajay M
12. Bharat P
13. Kishore M
14. Pravin Mohan
15. Kantilal S
16. Mohammed Irfan

17. Divisional Railway Manager(E)
Western Railway,
Rajkot.

..... Respondents

(Advocates: Mr. A.S. Kothari for the
official respondents.
Mr. P.H. Pathak for R-4 to R-16)

ORAL ORDER

O.A.No. 352/1991

Date: 11.12.1997

per: Hon'ble Mr. V. Ramakrishnan, Vice Chairman.

The applicants have challenged the seniority list of Cleaners in the Mechanical Department of the Rajkot Division claiming that the private respondents who are their juniors have been assigned higher seniority. They had approached the Tribunal some time in September 1991 when the private respondents were deputed for training to the promotional post of Second Fireman. Subsequent to filing of the O.A. the seniority list of NG Running Staff was published on 28.10.1991 which has been taken on record as Annexure R-1.

2. We have heard Mr. Y.V. Shah for the applicants and Mr. A.S. Kothari for the official respondents and Mr. P.H. Pathak for some of the private respondents.

3. The main ground urged by the applicants in support of their claim is that they were screened and found eligible for the post of Cleaners in the lower scale 750-940 from December 1987 whereas the private respondents got into this cadre only with effect from 7.11.88. It is also their contention that they received promotion to the next higher scale of 775-1025 some time in October 1990 as at Annexure A-2 whereas the private respondents were given that grade with effect from 30.3.92 as at Annexure A-4. Mr.Y.V.Shah

forcefully argues that there is no provision for treating people who are in the higher grade as juniors to those in the lower grade. He also disputed the averments of the then Railway Counsel before the Tribunal on 23.9.92 (while dealing with the M.A.252/92) that persons in both the pay scale for cleaners namely 750-940 and 775-1025 form only one cadre and seniority has to be counted with effect from the date on which anybody entered the service earlier in either of these two grades. He submits that this position is clearly untenable as persons in the higher scale should rank senior to those in the lower grade.

4. Mr. Kothari for the official respondents states that the applicants were surplus from Engineering Department and were transferred to the Mechanical Department and they are not entitled to the benefit sought for.

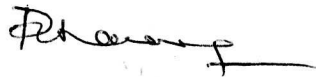
5. We have carefully considered the arguments of both sides and have gone through the materials on record, we find that even though the applicants were screened in December 1987 for posting as Cleaners in the Engineering Department, they admittedly have been declared surplus in that Department and were transferred to the Mechanical Department in April 1989 by an order dated 12.4.89. This order is enclosed as Annexure A-1 to the O.A. It is also clear from the records that the Mechanical Department forms a separate seniority ^{unit} which compared to the Engineering Department. When the applicants were transferred to

the Mechanical Department on 12.4.89 they would rank junior to those who were already in position on that date in the mechanical department as the applicants are surplus staff in the Engineering Department and but for transfer would have been retrenched. On the date of their transfer on 12.4.89, the private respondents were already in position as they had been empanelled as Cleaners as on 7.11.88 as seen at Annexure R-1 enclosed with the reply of the private respondents. This shows that the private respondents were empanelled for the recruitment in Group D service in Mechanical Department and were appointed as Loco cleaners. The private respondents were appointed not on adhoc basis but on regular basis after having undergone regular selection by that time and had been service in the Mechanical Department. The fact that the applicants were declared surplus has not been challenged in the present proceedings. The applicants claim is based on the fact that they were screened for the post of Cleaners in Engineering Department ^{earlier than} and the private respondents who were screened in the Mechanical Department. The admitted position is that when the applicants moved over to the Mechanical Department as surplus staff, the private respondents were in position in the Mechanical Department as Cleaners on regular basis. It is true that the applicants were given promotion to the higher grade on 30.10.90 in the Mechanical Department whereas the private respondents got such promotion only 30.3.1992. Presumably such orders were issued without keeping in view the ^{criteria} ~~claim~~


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for finalising the seniority. The applicants cannot ⁱⁿ take advantages of fortutuous orders of earlier ^{promoter} order to which prima facie they were not entitled.

6. In the light of this position we find that the O.A. is devoid of merit and dismiss the same.



(P.C. Kannan)
Member (J)



(V. Ramakrishnan)
Vice Chairman

vtc.