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CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 419 of 1991.
~~Case No.~~

DATE OF DECISION 21st July, 1994.

Union of India **Petitioner**

Shri B.R.Kyada **Advocate for the Petitioner (s)**

Versus

The Paschim Railway Karmachari
Parishad **Respondent**

Advocate for the Respondent (s)

CORAM

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

The Hon'ble Dr.R.K.Saxena : 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 Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

No

: 2 :

Union of India,
Western Railway,
Through :
The Divisional Railway Manager (Est.),
Rajkot.Applicant.

(Advocate : Mr.B.R.Kyada)

Versus

The Paschim Railway Karmachari Parishad,
C/o.B.K.Sharma,
Station Suptd.,
Navlakhi.Respondents.

JUDGMENT
O.A.NO. 419 OF 1991.

Date : 21st July, 1994.

Per : Hon'ble Mr.K.Ramamoorthy : Member (A)

The present application has been filed by the Divisional Railway Manager (East) seeking quashing of the award dated 13th Feb.1990, passed in case No.(ITC) No.6 of 1989 by the Industrial Tribunal. In this award, the Industrial Tribunal had settled the question of seniority of one Shri Ringola, on the two demands put as under :*

"(i) Whether the DRM, Western Railway, Rajkot/General Manager, Western Railway, Bombay are justified to declare Shri M.M.Shukla senior to Shri G.R.Ringola ? If not, what relief Shri Ringola is entitled to ?

(ii) Whether the Divisional Railway Manager, Western Railway, Rajkot is justified in not granting seniority in the combined seniority of Head quarter to Sarva Shri H.T.Dalwani, M.J.Abraham, M.R.Vyas and S.B.Nigam with effect from the date they are officiating as I.O.W. in the grade of Rs.425-700 (R) ? If not, to what relief they are entitled to ?

On both the points the award was against the action taken by the Railways.

: 3 :

2. The case papers were called for from the Industrial Tribunal and gone through.

3. One of the points raised for quashing the award was that the rights of certain other members were involved and names of two such members namely, Shri K.G.Mathai, and Shri A.N.Deshmukh were cited in the application. It was stated that their rights were ignored and they were not joined as party and therefore, the award was required to be quashed. To a specific question raised as to whether the issue of non-joinder of party was taken up at the time of pleading before the Industrial Tribunal, the counsel agreed that this point was not raised there. From the statement filed by the Railways on 10.5.1990, before the Tribunal also, it is seen that this point had not been raised.

4. Such a new issue therefore, cannot be raised at this stage and the question of quashing the award of Tribunal on this point does not arise.

5. The second issue which has been taken up in the petition relates to the fact that the award did not take into account Rule-314 of Indian Railway Establishment Manual, wherein it has been specifically mentioned that the adhoc appointment could not be counted for seniority. On this point also, it is seen that the Industrial Tribunal has delivered its award after going into the merits of the specific averments made already regarding consideration of ad hoc period.

: 4 :

6. There is considerable merit in the following reasons reproduced from the award of the Industrial Tribunal :

"In the instant case, the point at issue is quite different. These employees are not reverted to the original post, but in the integrated cadre the seniority is sought to be fixed from the date the department preferred to empanel them. As per Rule-321, when integrated seniority is to be maintained, the date since when an employee is officiating non-~~fortuitously~~ is to be considered. This is what has been held by the Central Administrative Tribunal in the case of Girdharlal J.Dabhi and others Vs. Union of India in T.A.NO. 1201 of 1986, on 23.6.1987."

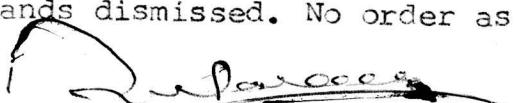
or
The award of the Industrial Tribunal is a well reasoned and requires no interference. This Tribunal also accepts the said reasoning.

7. A point has also been raised in the present petition stating that -

"The award passed by the Industrial Tribunal is also time barred because the Tribunal has no jurisdiction to consider the cases and disputes of 1969 to 1973 and 1979 onwards as per the details given in the application of the 4 applicants which came through the union for their benefits."

8. In this instance also it is seen that the issue has not been raised before the Industrial Tribunal and the question of permitting this ^{argument,} at this stage does not arise.

In view of the above reasons, the application stands dismissed. No order as to costs.


(Dr. R.K. Saxena)
Member (J)


(K. Ramamoorthy)
Member (A)

ait.

(J2)
(KS)

Date	Office Report	Order
15-2-1995		<p>M.A. 110/95 in O.A. 419/91</p> <p>Heard the learned counsel. M.A. allowed.</p> <p>Extension of time granted upto 30-4-95.</p> <p>M.A. stands disposed of accordingly.</p> <p style="text-align: right;"><i>AM</i> <i>AC</i></p> <p>(Dr. R.K. Saxena) (V. Radhakrishnan) Member (J) Member (A)</p> <p>*AS.</p>