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CAT/J/13

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

~~O.A.NO.~~ 78 of 1992.
~~T.A.NO.~~

DATE OF DECISION 19-11-97.

Mr. M.R. Shitole. Petitioner

Mr. P.K. Handa Advocate for the Petitioner [s]
Versus

Union of India and others Respondent

Mr. N.S. Shevde, Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V. Ramakrishnan : : Vice Chairman

The Hon'ble Mr. T.N. Bhat : : Judicial Member.

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ? *nr*
- 2, To be referred to the Reporter or not ? *nr*
- 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 ? *nr*

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Shri M.R. Shitole,
Behind Bhurabhai Mension,
Baranpura,
Baroda-390 001

: : Applicant.

(Advocate : Mr. P.K. Handa)

VERSUS

1) Union of India,
Secretary,
Ministry of Railways,
Owned and represented by
General Manager,
Western Railway,
Churchgate,
Bombay-400 020.

2) Divisional Railway Manager,
Divisional Office,
Western Railway, Pratapnagar,
Vadodara-390 004.

3) Senior Divisional Electrical,
Engineer (Power),
Divisional Office,
Western Railway, Pratapnagar,
Vadodara-390 004.

: : Respondents.

(Advocate : Mr. N.S. Shevde)

Date : 19-11-97.

: O R A L O R D E R :

O.A. No. 78 of 1992.

Per : Hon'ble Mr. V. Ramakrishnan : Vice Chairman.

Heard Mr. P.K. Handa for the applicant
and Mr. N.S. Shevde for the respondents.

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2) The applicant had retired from Railway Service as Electrical Mistry in the scale of Rs. 1400-2300 on 30-04-1988. He was promoted to the post with effect from 15-8-87 from the lower post of Highly Skilled Electrical Fitter Grade I. (HS/ELF/Gr. I). in the scale of Rs. 1520-2040. He claims that he should have been appointed as Master Craftsman in the scale of Rs. 425-640 (R)/1400-2300 (RP) with effect from 1-1-84.

3) The applicant states that Railway Board vide their letter No. PC IIII/82/PS-3/10 dated 14-2-1986 circulated vide Sr. DPO-BRC's letter No. EP/830/0 dated 23-4-1986 have introduced posts of Master Craftsman in the scale of Rs. 425-640/1400-2300 (RP) in the year 1986 as shown in Annexure AI when the applicant was in service and working as HS/ELF/Gr.I. The applicant also states that the promotion to the post of Master Craftsman is available to an employee in Gr. I, who has completed 10 years of continuous service put together after becoming a skilled Gr. III besides serving for a minimum period of 3 years in Grade I. The applicant contends that

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he was eligible in terms of the criteria and he is entitled to be given Proforma Fixation of Pay as Master Craftsman with effect from 1-1-84 and arrears with effect from 1-1-86 as per para-xi of Railway Board's letter dated 14-2-86. Such a benefit has been given to a number of juniors as per orders dated 4-8-91 as Annexure-A.

4) The respondents submit that the posts of Master Craftsman in the scale of Rs. 425-640 (PR) were to be created by Railway Boards letter dated 14-2-86 and 26-2-86 referred to in the letter, Annexure A-I. They also state that said Railway Board's letter dated 14-2-86 was implemented vide Division Office memo No. F/EL/830/3/1 (Power), dated 4-9-91. The delay in implementing the Railway Board's order is not intentional, but it was due to administrative reasons. The respondents have issued promotion order dated 4-8-91 (Annexure A) in favour of eligible employees who were in service on that date, passed the suitability test and were empanelled for promotion to the post of Master Craftsman in the scale of Rs. 1400-2300 (RP). It is also the

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statement of the respondents that the instructions of the Railway Board to implement the said orders expeditiously does not mean that senior most employees are required to be promoted without taking suitability test. The promotion to the post of MCF was not automatic as per seniority and the applicant had already retired on 30-4-1988 before taking the suitability test and as such he is not eligible for Proforma Fixation of pay with effect from 1-1-1984 and arrears with effect from 1-1-1986 as per para (iv) and (xi) of the Railway Board's letter dated 14-2-1986 as he was not promoted to the post of MCF prior to his retirement. Mr. Shevde, learned counsel for the respondents also states that the applicant had approached this Tribunal within a period of six months from the date of his alleged first representation dated 11-8-91 without waiting for a reply.

5) We have examined the submissions of both the sides. We take note of the fact that an employee can be promoted only after passing the suitability test. Para (xii) of the Railway Board's Circular dated 23-4-86 read as follows :-

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"(xii) Since the benefit of proforma fixation of pay from 1-1-84 and arrears from 1-1-86 is payable to an employee after passing the suitability test, the employees who have retired after 1-1-86 are not eligible for being called for suitability test. Employees who are due to retire and are likely to get the benefit should be tested for their fitness to hold the post after assessing the number of posts that would be created in a particular category. This exercise should be done quickly, immediately on receipt of letter."

6) It is clear from this that the passing of suitability test is essential before getting the benefit of promotion as Master Craftsman. Once the eligible persons clear the suitability test, they can get the benefit of Proforma Fixation of pay from 1-1-84 and arrears from 1-1-86. The circular states that those who had retired before 1-1-86 are not eligible for such benefits as they could not take the suitability test. Mr. Handa seeks to argue that such restrictions does not apply to those who retired after 1-1-86. In our view the rationale behind denying such benefits to those retired before 1-1-86 is that they had not taken the suitability test. It is true that

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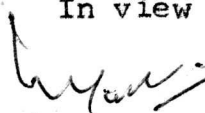
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that there has been some delay in implementing the scheme by the Railways. The applicant had ~~x~~ retired on 30-4-1988 and he was promoted to the post of Electrical Mistry with effect from 15-8-87 which is equivalent to the post of MCF. The fact remains that he had not taken the suitability test, which is pre-requisite for getting the benefit.

7) In the facts and circumstances of the case, we are of view that the applicant can not get the benefit prayed for.

8) In view of this, we dismissed ~~O.A.~~ O.A. No costs.


(T.N. Bhat)
Member (J)


(V. Ramakrishnan)
Vice Chairman

Pt

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD

Application No. CA/78/92

Transfer Application No. —

CERTIFICATE

Certified that no further action is required to be taken
and the case is fit for consignment to the Record Room (Decided).

Date:- 08/01

Signature of the Dealing
Assistant

Countersign:-

Section Officer

[Signature]
6/2/78

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