

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 112 OF 1992.
~~T.A. No.~~

DATE OF DECISION 02/09/1993.

Shri D.S.Meena Petitioner

Shri K.K.Shah Advocate for the Petitioner(s)

Versus

Union of India and Ors. Respondent

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

CORAM :

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

The Hon'ble Mr. M.R.Kolhatkar : Member (A)

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 ?

: 2 :

Shri D.S.Meena,
Presenting Officer,
596-D Saraspur Railway Colony No.1,
Saraspur,
Ahmedabad.

....Applicant.

(Advocate : Shri K.K.Shah)

Versus

1. Union of India, notice to be
served through

The Secretary,
Ministry of Railways,
New Delhi.

2. The Secretary,
Railway Board,
Rail Bhavan,
New Delhi.

...Respondents.

(Advocate : Shri N.S.Shevde)

O R A L J U D G M E N T

O.A.NO. 112 OF 1992.

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Dated : 02/09/1993.

Per : Hon'ble Mr.M.R.Kolhatkar : Member (A)

This is an application under Section-19 of the Administrative Tribunals Act, 1985. The applicant belongs to ST community. He joined service of the Railway as Ticket Collector on 14th May, 1962. He was appointed to a Group-B post with retrospective effect from 01.06.1975, as a result of a directive of the Gujarat High Court. On this basis, as per the direction of the High Court, the applicant belonging to ST community, became eligible to be considered against a post reserved for an SC candidate.

The DPC which met on 30.7.1987, considered the case of the applicant and based on the assessment of the applicant in the context of his CR's, recommended the applicant to be included in the panel for substantive promotion to Group-A (Junior Scale) of the Transportation (Traffic), and Commercial Department of the Indian Railways against the reserved vacancy reported to the DPC held on 14.9.1982.

The recommendation of the DPC held on 30.7.1987, was subject to the results of the SLP filed in the Supreme Court by the Department against the orders of the Gujarat High Court. It appears that this SLP, as a matter of fact, was dismissed, on 31.7.1987, i.e., on the day next to the date of meeting of DPC. Formal orders promoting him from 20.11.1982 were issued on 28.10.1987 vide Annexure-A/6.

It is not necessary to go into the detailed background of the case except to observe that the minutes of the Review DPC dated 30.7.1987, which we had directed to be produced by our order dated 21.4.1993, have since been produced before us and perused by us. The minutes of the Review DPC in para-2 appear to contain a typographical error viz. 1982, should read as 1980 but for facts we have relied on ~~xx~~ Department's reply rather than on the minutes. The short point which was argued before us by the learned advocate for the applicant is that the applicant should be considered for promotion with effect from 1980 rather than 1982 because the vacancy was available in 1980.

Here the contention of the respondents is that no doubt vacancies pertaining to the year 1980 were assessed as four including three-General and one SC but the DPC for this vacancy had met on 14.9.1982 and the officers recommended by the DPC were promoted w.e.f. Nov.1982 as UPSC had communicated their approval to the DPC recommendations on that date. The Review DPC proposal for considering the applicant for the vacancies of 1980 was sent to UPSC and the DPC which met on 30.7.1987 recommended the applicant to be included in the junior~~s~~ scale of the Indian Railway Traffic Service Panel of 1980 which was effective from Nov. 1982. As the panel for 1980 vacancies was effective from Nov.1982, the applicant was also given promotion w.e.f. that date and the Department contends that in view of these facts, the applicant has no claim for promotion from a date earlier to November, 1982.

2. This explanation of the respondents does not appear to be satisfactory. Admittedly, the applicant was promoted to Group-B post from 1. 6.1975, with retrospective effect and admittedly he could have been considered for promotion against 1980 vacancy, On the basis of completion of minimum length of service in Group-B for promotion to Group-A. The accident of the date of the meeting of the DPC and the date of communication of approval by U.P.S.C. cannot be allowed to deny the legitimate right of promotion from an earlier date to the applicant if he is otherwise

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eligible thereto according to Rules. We therefore, dispose of this case by passing the following order.

ORDER

The representation of the applicant dated 12.12.1991, at Annexure-A/11, with reference to which Adviser (Management Services), Railway Board reportedly gave a personal hearing to the applicant vide para-12 of the reply of the respondents, should be re-examined by the respondent ~~Rail~~ Railway Board in the light of the observations made by this Tribunal and a speaking order should be passed by the Railway Board with reference to the request of the applicant for being given 1980 as the deemed date of promotion to the Junior Scale of I.R.T.S. The speaking order should be passed by the Railway Board within three months of the date of receipt of the order of the Tribunal and communicated to the applicant within a fortnight of the passing of the order.

If the applicant feels aggrieved by that order, it is open to the applicant to approach this Tribunal under law. On the other hand, if the Railway Board accedes to the request of the applicant, he should be promoted with consequential benefits within a month of the passing of the order.

The application is disposed of accordingly.

No order as to costs.

Raval
(R.C.Bhatt)
Member (J)

M.R.Kolhatkar
(M.R.Kolhatkar)
Member (A)

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