

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 169 OF 1992.

~~TOP SECRET~~

DATE OF DECISION 25- 08- 1995

Narayanbhai J. Patel, **Petitioner**

Mr. M.S. Trivedi, **Advocate for the Petitioner (s)**

Versus

Union of India & Ors. **Respondents**

Mr. B.R. Kyada, **Advocate for the Respondent (s)**

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The Hon'ble Mr. N.B. Patel, Vice Chairman.

The Hon'ble Mr. K. Ramamoorthy, Admin. 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 ?

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Narayanbhai J. Patel,
Aged 44 years,
Occupation: Service,
Residing at -
26, Karsan Nagar Society,
Near N.V. High School,
Keda Read, Visnagar.

.... Applicant.

(Advocate: Mr. M.S. Trivedi)

Versus.

1. Union of India, through
The General Manager,
Western Railway,
Churchgate, Bombay.

2. Divisional Railway Manager,
Western Railway,
Rajkot Division, Rajkot.

3. Senior Divisional Operating
Superintendent, Divisional
Railway Manager's Office,
Western Railway, Rajkot.

.... Respondents.

(Advocate: Mr. B.R. Kyada)

J U D G M E N T

O.A. No. 169 OF 1992

Date: 25-08-1995

Per: Hon'ble Mr. K. Ramamirthy, Admn. Member.

The applicant in this application has sought relief to assign the correct serial number in the seniority list. The applicant was assigned seniority at Sl. No. 30 in the seniority list circulated under letter No. ET/1030/12 Vol. V dated 11.11.1991 (Annexure A/2). It was, however, indicated in that circular that appeal or representation can be preferred against the serial number shown therein. Thereafter in the final seniority list published, after receiving representations, vide letter No. ET/1030 12 Vol. V dated 24.2.1992 (Annex. A/5), the applicant's name has been pushed down to Sl. No. 77.

2. The fact about the applicant being a permanent employee of the Railway Administration or his working as Goods Guard in the scale of Rs. 1200-2040 in Rajkot Division is not in dispute. The fact is also not in dispute that the present applicant was declared selected for the post of Goods Guard vide panel dated 15.6.1988 and the applicant being listed at Sl.No.2. It is also not in dispute that the selected candidates were asked to undergo training in Udaipur subsequent to the selection and the applicant had not agreed to go for training at that point of time. The applicant himself has stated in his application that due to his unavoidable family circumstances, he was not able to give his consent. The applicant was sent for training from 16.1.1990 to 22.3.1990.

3. It is the contention of the Railways that in the final seniority list, the applicant is given Sl.No.77 and 23.4.1990 is shown as the date from which the applicant has been continuously officiating. The following reason is also specifically mentioned as the reason in the remarks column:

"Refused to go for training from 19.7.1988 and subsequently on request sent for training from 16.1.90 to 2.3.90".

This perhaps accounts for the later date of continuous officiating and later assigned date of seniority.

4. On 21.7.1995, the date of hearing fixed for the case, the counsel for the applicant as well as the respondents have stated at bar that they would not like to offer any oral arguments but confine themselves to the written arguments that will be submitted by them. Accordingly, the written arguments furnished by them on 30.1.1995 and 6.2.1995 have been perused. It is

clear from the provisions in the IREM that only after completion of training, an employee can be formally posted as a Guard. It is also clear that the applicant had himself not chosen to go for training in 1988 for his own family reasons and he could undertake this training in 1990. Therefore, fixing the seniority on the basis of posting after the training cannot be disputed. The only other point that has been raised in the written arguments relates to the question as to whether applicant's seniority position can be changed without a specific reference to the present applicant. The applicant has quoted the following three cases:

1. A.B. Joshi V/s. A.O., Bhavnagar
(1984 GLH (UJ) 4)
2. Gurudev Singh V/s. Union of India
(1974 (2) SLR 211)
3. A.Patel V/s. State of Gujarat
(1991 (2) GLH 144)

5. We have gone through the judgments. However, these judgments do not apply in the particular case in as much as it has been specifically indicated in the seniority list of 11.11.91 that it is a provisional seniority and representations could be entertained against the list as such. If, therefore, the seniority list is finalised after receipt of representation as has been done in this case as seen from the order of 24.2.1995 at Annexure A/5, such a final decision cannot be faulted on the mere plea that individuals affected by the revision in the final seniority are not specifically again given an opportunity. The system of provisional and final seniority is basically designed to entertain all representations and the final list cannot be declared void merely because in the final revision order changes are made and

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persons affected by the changes are not again notified. Such a final seniority list cannot be declared as void merely on this ground. The applicant of course has a right to challenge the reassignment on merits as has been done in this case. It is also seen that reassignment has been made by the respondents for the valid reason, i.e., to a later completion of training by the applicant.

6. We, therefore, see no reason to interfere with the final seniority list. Hence the application is rejected. No order as to costs.


(K. Ramamoorthy)
Member (A)


(N.B. Patel)
Vice Chairman

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