

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD

OA/MA/RA/C.A. No. 805/1992

APPLICANT(S) Tilender & Sons

versus Mr. P. H. Patel

COUNSEL \*

VERSUS

RESPONDENT(S) Mr. J. S. Joshi

COUNSEL \*

DATE	Officer Report	Orders
		Pl. make upt. after add to resp. <u>8/28/92</u>
		Pl. issue notice to resp. with Copy of order dated 15/11/92. <u>2/10/93</u>
17/11		Notice served on respon. 1 & kept with off. on 19/11.
11		Notice served on respon.
16/11/92		Non present. Report not filed within my time fixed for files report on date 16/11/92 <u>for 16.11.</u> <u>Mc Gregor</u>
16 12/92		Non present. Body not filed. may be placed for appropriate order <u>for 16.12.</u>
28/2		

Date	Office Report	ORDER
16-2-93		Reply not filed. The matter to be placed for appropriate order. 1/c Registrar 16/2/93
14-5-93		Reply not filed. The matter to be placed for appropriate order. Ad. dtd. 16-7-93. 1/c Registrar
26-7-93	Reply not filed. Adj. for filing reply on 12-8-93	P D.R.(J)
12-8-93	Reply not filed. Adj. for reply on 2-9-93	P 1/c Registrar
2-9-93	I'm view of order dt 13.4.93, of the Court soc to verify the correctness of the reply filed, after examining the matter thoroughly & placed on do. 17.9.93 1/c Registrar	<i>Mahan</i> 1/c Registrar
18/10/93	P1. See order dtd. 14/10/93 Notice may be issued or not?	<u>RR</u> 18/10/93 I think, No. Both side S.O. <del>not</del> present, copy given also no particular direction Dy. R. (J) Respondents, namely P1 20/10/93 members v. Radhakrishnan & that his each & every dir should be conveyed whether are present or not & copy given or not 22/10

Date	Office Report	Order
28-4-1992.	<p>Resp. submitted</p> <p>Reply on IR not filed</p> <p>10/Christian</p> <p>SD 1-5-92</p>	<p>Heard learned advocate Mr.P.H. Pathak for the applicant. Admit.</p> <p>Issue notice to the respondents to file reply as to why interim relief as prayed for be not granted.</p> <p>Returnable by 5th May, 1992. If the respondents do not allow the applicant to resume duty, the order that may be passed on interim relief will have <del>the</del> effect which will be binding to both the parties.</p>
5.5.1992		<p>Reml (R.C.Bhatt) Member (J)</p> <p>By consent of the learned advocates for the parties the matter is adjourned to 7th May, 1992.</p>
07.5.1992.		<p>Reml (R.C. Bhatt) Member (J)</p> <p>*Kaushik</p> <p>Learned advocate Mr.N.S.Shevde for the respondents produced today one order dated 22nd April, 1992, from the office of the Chief Works Manager, Engineering Workshop, Sabarmati, through IOW-ADI, and ors., on subject of Absorption of surplus staff-Concrete Sleeper Factory, Sabarmati showing the names of all these applicants in O.A. By consent this order is taken on record. The respondents to supply the copy of this order to each applicant if not supplied and to act accordingly. The matter is adjourned to 15th June, 1992. The learned advocate for the applicants submits that applicants are <del>required</del> to join according to the order produced today by learned advocate Mr.N.S.Shevde.</p>

Date	Office Report	Order
29.5.1992		<p>Heard learned counsel Mr. P. H. Pathak for the applicant. Perused the order dated 17th May, 1992. The order dated 22nd April, 1992, can not be modified till further orders and the respondents will take the work according to the order dated 22nd April, 1992 from the petitioners. Rule is made returnable within a period of ten days. Dasti notice be given for stay. The matter be put up on 8th June, 1992.</p> <p><i>D. L. Mehta</i></p> <p>(D. L. Mehta) Vice Chairman</p>
9.6.1992	AIT	<p>Both the parties prays for time. Hence the matter is adjourned to 11.6.1992.</p> <p><i>B. B. Mahajan</i></p> <p>(B. B. Mahajan) Member (A)</p> <p><i>D. L. Mehta</i></p> <p>(D. L. Mehta) Vice Chairman</p>
	*K	<p>Present : Mr. P. H. Pathak, learned advocate for the applicant.</p> <p>The respondents file reply today. The office <del>have</del> to verify whether objection in M.A. is removed or not. The matter is adjourned to 15th July, 1992.</p> <p><i>R. C. Bhatt</i></p> <p>(R. C. BHATT) Member (J)</p>

Res. Submitted  
The objections  
have not been  
removed

*R. C. Bhatt*  
13.7.92  
S.O.

VMU

Date Office Report

Order

15.7.92

The applicant has filed M.A. 166/92, enclosing therewith an order dated 25.5.1992 issued by the DRB (E) BRC who is the first respondent. It is submitted by the learned counsel for the applicant that this order is contrary to the order dated 22.4.1992 issued by the respondents. In respect of this order the Tribunal passed an order dated 29.5.1992 that the orders contained therein (i.e. dated 22.4.1992) cannot be modified till further orders and the respondents will take work from the applicants only according to that order.

We have heard the parties. The

Annexure I order dated 25.5.1992 attached to the M.A. appears to effect a change as the duties of persons mentioned therein some of whom are applicants in this application. This is not permissible. In circumstances, we direct that in so far as Annexure I order dated 25.5.1992 attached to the M.A. concerns any of the applicants, it shall not be given effect to, if not already implemented until further orders. M.A. is disposed of according to

A copy of the Tribunals' order dated 29.5.1992 should also be served to the respondents by Register.

The respondents to file reply within three weeks. The applicant to file rejoinder within two weeks, thereafter. List the matter for final hearing on 18th August, 1992.

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

*N.V. Jan*  
(N.V. Jan  
Vice

te	Office Report.	ORDER
34) 8.92	Present:Mr.P.H. Pathak, Adv/Apt. Mr. N.S.Shevde, Adv/Res.	At the request of the respondents' counsel call for final hearing on 20th October, 1992.  <i>R.C.Bhatt</i> (R.C.Bhatt) Member (J) <i>N.V.Krishnan</i> (N.V.Krishnan) Vice Chairman
-10-92	vtc.  Shri Pathak <del>abs</del> sent a sick note. List this matter <del>xxxxxx</del> before the registry.  <i>R.C.Bhatt</i> (R.C.Bhatt) Member (J) <i>N.V.Krishnan</i> (N.V.Krishnan) Vice Chairman	
	*AS.	

DATE	OFFICE REPORT	ORDERS.
(11) 5.1.93		<p>Mr. P.H. Pathak for the applicant has sent a leave note. Respondents have not filed reply. Three weeks time is sought which is granted. Rejoinder if any be filed within two weeks thereafter. List before the Registry for completion of pleadings.</p> <p><i>Nes</i> <i>KL</i></p> <p><u>Res subi:</u> Reply not filed. <u>Arraval</u> 2-3-93</p> <p><u>vtc.</u></p>
3.3.93		<p>Mr. Pathak learned advocate is present for the applicant. Mr. Shevde, learned advocate for the respondents seeks one week's time to file reply. Time is granted upto 11th March, 1993.</p> <p><i>KL</i> <i>Nes</i></p> <p><u>Res subi:</u> Reply not filed. <u>Arraval</u> 8-3-93</p> <p><i>*K</i></p>

DATE	OFFICE REPORT	ORDERS
(9) 11.3.93		<p>Mr. P.H. Pathak, learned advocate for the applicant seeks time to file rejoinder as the learned advocate Mr. N.S. Shevde for the respondents files reply today before the Registry. Hence call on 30th March, 1993 for further order.</p> <p><i>VR</i></p> <p>(V. Radhakrishnan) Member (A)</p> <p><i>RCB</i></p> <p>(R.C. Bhatt) Member (J)</p> <p>vtc.</p> <p>Reply is filed. Rejoinder, if any, be filed within two weeks i.e. on or before 13th April, 1993.</p> <p>Call on 13-4-1993</p> <p><i>VR</i></p> <p>(V. Radhakrishnan) Member (A)</p> <p><i>NB</i></p> <p>(N.B. Patel) Vice Chairman.</p>
30-3-1993 36383	<p><i>Res-Sub</i></p> <p><i>Reply not filed</i></p> <p><i>Arrived</i></p>	<p>*AS.</p>

13-4-93

Learned advocates for the parties are present. Mr. Shevde submits that the respondents have filed reply on merits on 11-3-93. But the office report, dated 26-3-93 shows that the reply is not filed. Office to verify the correct position and if reply ~~is~~ filed, the applicant at liberty to file rejoinder within 4 weeks. D.R. to list the matter for final hearing in due course.

M.R.Kolhatkar

(M.R. Kolhatkar)

Admn. Member

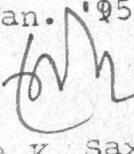
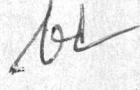
*Nes*

(R.C. Bhatt)

Member (J)

21-12-94

\*SS  
Mr. Shevde states that he has yet to get a copy of M.A. Mr. Pathak may give a copy to him. Mr. Shevde to produce the documents listed within 3 weeks. M.A. Disposed of. Matter fixed on 19th Jan. '95.

  
(Dr. R.K. Saxena)  
Member (J)  
(V. Radhakrishnan)  
Member (A)

19-1-1995

Learned counsel for the parties are present.

At their joint request the matter is adjourned to 3-2-1995.

  
(Dr. R.K. Saxena)

Member (J)

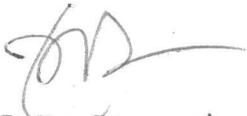
  
(V. Radhakrishnan)

Member (A)

\*AS.

3-2-1995.

None present for the parties. The matter is adjourned to 10-3-1995.

  
(Dr. R.K. Saxena)

Member (J)

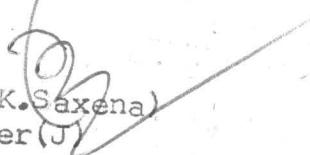
  
(V. Radhakrishnan)

Member (A)

\*AS.

10.3.95.

Learned advocates are present. At the request of Mr. N.S. Shevde, adjourned to 20.4.1995 to enable him to produce documents.

  
(Dr. R.K. Saxena)

Member (J)

  
(V. Radhakrishnan)

Member (A)

ait.

## Office Report

## ORDER

20/4/95.

None present for the parties.

Adjourned to 8.6.1995.

(Dr.R.K.Saxena)  
Member(J)(V.Radhakrishnan)  
Member(A)

ait.

8.6.95

As the Division Bench is not available,

the matter is adjourned to 26.6.1995.

(V.Radhakrishnan )  
Member (A)

npm

26.6.1995.

None present for the applicant. As this is a Division Bench matter, the matter is adjourned to 24.7.1995.

(V.Radhakrishnan )  
Member (A)

ait.

7.95

Mr. Pathak is not present. Adjourned to 11th August, 1995.

(V.Radhakrishnan )  
Member (A)

vt@.

Date

Office Report

ORDER

11.8.95

Being a Division Bench matter, adjourned  
to 25th September, 1995.

*R*  
(K.Ramamoorthy)  
Member(A)

vtc.

25.9.95

Being a Division Bench matter, adjourned  
to 11th December, 1995.

*R*  
(K.Ramamoorthy )  
Member(A)

npm

11.12.95

Being a Division Bench matter, adjourned  
to 11th January, 1996.

*R*  
( K. Ramamoorthy )  
Member(A)

npm

11.1.1996.

Sick note filed by Mr. P.H.Pathak. Being  
Division Bench matter, adjourned to 1.3.19

*BR*  
(V.Radhakri  
Member)

ait.

1.3.96

Being a Division Bench matter, ad  
to 26.04.1996.

*R*  
(K.Ramamoort  
Member)

npm

Date	Office Report	ORDER
26.4.96		<p>Being a Division Bench matter, adjourned to 20.06.1996.</p> <p style="text-align: right;">(K.Ramamoorthy ) Member (A)</p> <p style="text-align: center;">npm</p>
20.6.96	<p>As the learned Member of the Bench is not available, the matter is adjourned to 10.7.96.</p> <p style="text-align: center;">By order of the Court Ramamoorthy</p>	
10.7.96		<p>Being a Division Bench matter, adjourned to 7th August, 1996.</p> <p style="text-align: right;">(K.Ramamoorthy ) Member (A)</p> <p style="text-align: center;">npm</p>
7.8.96		<p>Being a Division Bench matter, adjourned to 29.8.1996.</p> <p style="text-align: right;">(K.Ramamoorthy ) Member (A)</p> <p style="text-align: center;">ait.</p>
29.8.96		<p>At the request of Mr.K.K.Shah on behalf of Mr.P.H.Pathak, adjourned to 12.9.96.</p> <p style="text-align: center;">( T.N.Bhat ) Member (J)</p> <p style="text-align: right;">R (K.Ramamoorthy ) Member (A)</p> <p style="text-align: center;">npm</p>

Date	Office Report	ORDER
12.9.96		<p>Being a Division Bench matter, adjourned to 10th October, 1996.</p> <p>( K.Ramamoorthy ) Member (A)</p> <p>npm</p>
10.10.96.		<p>Being a Division Bench matter, adjourned to 27.11.1996.</p> <p>( V.Radhakrishnan ) Member (A)</p> <p>ait.n.</p>
27/11/96		<p>BEING A DIVISION BENCH MATTER ADJOURNED TO... 16/12/96</p> <p>( K.Ramamoorthy ) Member (A)</p>
16.12.96		<p>At the joint request of the learned counsel, the matter is adjourned to 18.12.1996.</p> <p>( A.K.Mishra ) ( K.Ramamoorthy ) Member (J) Member (A)</p> <p>npm</p>
18.12.96.		<p>Leave note filed by Mr.N.S.Shevde. At the request of Mr.P.H.Pathak, adjourned to 15.1.1997.</p> <p>( A.K.Mishra ) ( K.Ramamoorthy ) Member (J) Member (A)</p>

Date: Office Report

R.B. 3496

ORDER

No. 29/1/1997

8.5.97.

Sick note filed by Mr. P. H. Bathak. Being a Division Bench matter, adjourned to 3.7.1997.

*Ab*  
(V. Radhakrishnan)  
Member (A)

ait.

3.7.97

Both the learned advocates are present.  
Being a Division Bench matter,  
adjourned to 31.07.1997.

*Ab*  
(V. Radhakrishnan)  
Member (A)

npm.a

31.7.97.

None present for the parties.  
Adjourned to 11.9.1997.

*Ab*  
(T. N. Bhat)  
Member (J)

*Ab*  
(V. Radhakrishnan)  
Member (A)

ait.

11.9.97

Time being over, adjourned to  
23.10.1997.

*Ab*  
(T. N. Bhat)  
Member (J)

*Ab*  
(V. Radhakrishnan)  
Member (A)

npm

## Office Report

## ORDER

15.1.1997.

At the request of Mr.P.H.Pathak, adjourned to 24.1.1997.

*by me*  
(T.N.Bhat)  
Member (J)

*bd*  
(V.Radhakrishnan)  
Member (A)

ait.

24.1.1997

BEING A DIVISION BENCH MATTER  
ADJOURNED TO 14.1.2.1997

*bd*  
(V.Radhakrishnan)  
Member (A)

14.2.1997

This is a Division Bench matter. As no Division Bench is available, adjourned to 19.3.97.

*by me*  
(T.N.Bhat)

Member (J)

Being a Division Bench matter, adjourned to 07.4.1997.

*bd*  
(V.Radhakrishnan)  
Member (A)

.4.97.

Being a Division Bench matter, adjourned to 08.5.1997.

*bd*  
(V.Radhakrishnan)  
Member (A)

ait.

Office Recd.

## ORDER

At the joint request of the learned advocates  
the matter is adjourned to 17.11.1997.

PK  
( P.C. Kannan )  
Member (J)

VR  
( V.Radhakrishnan )  
Member (A)

npm

Being a Division Bench matter, adjourned  
to 15.12.97.

VR  
( V. Radhakrishnan )  
Member (A)

hki

Both the learned counsels are present.  
At joint request adjourned to 12.1.98.

PK  
( P.C. Kannan )  
Member (J)

VR  
( V. Radhakrishnan )  
Member (A)

In view of the advocates abstaining from  
work today, the matter is adjourned to 12.2.98.

VR  
( V.Radhakrishnan )  
Member (A)

SNS+

Mr. Pathak is not present, hence  
adjourned to 23.3.98.

PK  
( P.C. Kannan )  
Member (J)

VR  
( V. Radhakrishnan )  
Member (A)

## ORDER

SC

Date Office Report

23.3.98

(Leave note filed by Mr. Pathak, adjourned to 14.05.1998.)

(Leave note filed by Mr. Pathak, adjourned to 14.05.1998.)

(Leave note filed by Mr. Pathak, adjourned to 14.05.1998.)

At the joint request of the learned adv.  
the matter is adjourned to 14.05.1998.(P.C. Kannan)  
Member (J)(V.R. Radhakrishna)  
Member (A)

npm

DFT

14.5.98 (Leave note filed by Mr. Pathak, adjourned to 14.05.1998.)

23.7.98, SI. 31 (Leave note filed by Mr. Pathak, adjourned to 14.05.1998.)

(Leave note filed by Mr. Pathak, adjourned to 14.05.1998.)

(V.R. Radhakrishna)  
Member (A)

23.7.98

(Leave note filed by Mr. Pathak, adjourned to 14.05.1998.)

Sick note filed by Mr. Shevde, adjourned to 28.8.1998.

(Leave note filed by Mr. Pathak, adjourned to 14.05.1998.)

(P.C. Kannan)  
Member (J)(V.R. Radhakrishna)  
Member (A)

98

(Leave note filed by Mr. Pathak, adjourned to 14.05.1998.)

npm (Leave note filed by Mr. Pathak, adjourned to 14.05.1998.)

Time being over. Adjourne

(Laxman Jha)  
Member (J)

nkk

DATE

OFFICE REPORT

O R D E R

12.10.98

Place it before the Division Bench  
on 12.11.98

*br*  
(V.Radhakrishnan)  
Member (A)

nki

12.11.98

Being a Division Bench matter,  
adjourned to 11.1.99.

*dl*  
(V.Radhakrishnan)  
Member (A)

nkk

11.1.99

As the Division Bench is not available,  
adjourned to 24.2.99.

*PN*  
(P.C.Kannan)  
Member (J)

nkk

24-2-99

Place before Division Bench on

19-4-99.

*PN*  
(P.C. Kannan)  
Member (J)

Pt

19.4.99

Heard Mr.Pathak and Mr.Shevde.

PART HEARD. Adjourned to 3.5.99.

*PN*  
(P.C.Kannan)  
Member (J)

*dl*  
(V.Radhakrishnan)  
Member (A)

nkk

DATE

OFFICE REPORT

O R D E R

dated 30.5.99 and adjourned to 31.5.99

3.5.99

At the joint request of both the learned advocates, adjourned to 7.6.99.

(P.C.Kannan)  
(V.Radhakrishnan)

Dr  
(P.C.Kannan)  
Member (J)

VR  
(V.Radhakrishnan)  
Member (A)

nkk

7.6.99

At the request of Mr.Shevde counsel for the respondents, adjourned to 24.6.99.

Dr  
(P.C.Kannan)  
Member (J)

VR  
(V.Radhakrishnan)  
Member (A)

nkk

24.6.99

At the request of Mr.Shevde , adjourned to 7.7.99.

Dr  
(P.C.Kannan)  
Member (J)

VR  
(V.Radhakrishnan)  
Member (A)

nkk

7.7.99

At the request of Mr.Shevde, adjourned to 4.8.99.

Dr  
(P.C.Kannan)  
Member (J)

VR  
(V.Radhakrishnan)  
Member (A)

nkk

4.8.99

Time being over, adjourned to 5.8.99.

Dr  
(P.C.Kannan)  
Member (J)

VR  
(V.Radhakrishnan)  
Member (A)

nkk



DATE

कार्यालय टिप्पणी  
OFFICE REPORT

आदेश  
ORDER

5.8.99

Leave note filed by Mr. Pathak,  
adjourned to 6.8.99.

(P.C. Kannan)  
Member (J)

(V. Radhakrishnan)  
Member (A)

nkk

6.8.99

At the request of Mr. Shevde, adjourned  
to 16.8.99

(P.C. Kannan)  
Member (J)

(V. Radhakrishnan)  
Member (A)

nkk

16.8.99

Mr. Pathak is present. At the request  
of Mr. Shevde, adjourned to 19.8.99.

(P.C. Kannan)  
Member (J)

(V. Radhakrishnan)  
Member (A)

nkk

19.8.99

Mr. Pathak is present. At the request  
of Mr. Shevde, adjourned to 15.9.99.

(P.C. Kannan)  
Member (J)

(V. Radhakrishnan)  
Member (A)

nkk

तारीख DATE	कार्यालय टिप्पणी OFFICE REPORT	आदेश ORDER
15.9.99	At the request of Mr. Shevde, adjourned to 17.9.99.	<i>Ar</i> (P.C. Kannan) Member (J)
17.9.99	At the request of Mr. P.H. Pathak and Mr. N.S. Shevde, adjourned to 29.9.99.	<i>Ar</i> (P.C. Kannan) Member (J)
29.9.99	Time being over, adjourned to 14.10.99.	<i>Ar</i> (P.C. Kannan) Member (J)
14.10.99	Mr. Pathak submits that the respondents are directed to produce the orders regarding regularisation of the applicant Mr. Shevde for the respondents also, may be directed to produce the orders. We direct that both sides should indicate the present position of the applicants with full particulars <del>like</del> with date of regularisation etc., Adjourned to 25.10.99. A copy of the order may be given to the respondents.	<i>Ar</i> (V. Radhakrishnan) Member (A)

तिथि DATE	कार्यालय टिप्पणी OFFICE REPORT	
25.11.99		Mr. Pat. A.K is present. At the request of Mr. Shevde, adjourned to 25.11.99.  <i>Pn</i> (P.C.Kannan) Member (J)
25.11.99		nkk It is part heard matter and Division Bench matter is not available, adjourned to 3.12.99.  <i>A</i> (V.Radhakrishnan) Member (A)
3.12.99		nkk At the request of Mr. Shevde, adjourned to 4.1.2000.  <i>A</i> (A.S.Sanghavi) Member (J)
4.1.2000		Pt Released from PART HEARD. Adjourned to 1.3.2000.  <i>Pn</i> (P.C.Kannan) Member (J) nkk

तारीख  
DATE

कार्यालय टिप्पणी  
OFFICE REPORT

आदेश  
ORDER

1.3.2000

Division Bench matter. Adjourned to  
3.5.2000.

*PKN*  
(P.C.Kannan)  
Member (J)

nkk

3.5.2000

Mr.Pathak has filed a leave note.  
Division Bench matter. Adjourned to  
21.6.2000.

*AS*  
(A.S.Sanghavi)  
Member (J)

nkk

21.6.2000

Mr. Shevde seeks time to  
file reply to MA/80/2000. Mr. Pathak,  
for the applicant absent.

MASt/67/2000 :-

*Mr. Pathak*  
He has not removed the  
objection in MASt/67/2000. He is  
directed to remove the same by the  
next date. Adjourned to 6.7.2000.

*MPS*  
(M.P. Singh)  
Member (A)

*AS*  
(A.S. Sanghavi)  
Member (J)

Pkn

तिथि  
DATEकार्यालय टिप्पणी  
OFFICE REPORTआदेश  
ORDER

6.7.2000

We may take  
necessary approval of  
Hon'ble VC for the  
proposed transfer to  
Court I.

प्र  
10/7/2000

10/7/2000  
S/DR (J)

Hon'ble VC.

May be transferred to  
Court I.

DR  
11/7/2000

As per order passed  
in on 22/1/92 Court I dated  
28.7.2000, this OA Cte.  
205/92 is ordered to appear  
on 11.8.2000  
in Court I.

प्र  
10/8/2000

DR (J)

11.08.2000

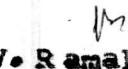
Mr. Pathak says that the  
O.A. can be disposed of, by  
Mr. Shevde indicating the present  
position. Since it is a Division  
Bench matter, Hon'ble Vice Chairman  
may be moved for transferring the  
matter to the 1st Court. Adjourned  
to 28.8.2000.

  
(A.S. Sanghavi)  
Member (J)

Pkn

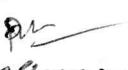
28.8.2000

  
(A.S. Sanghavi)  
Member (J)

  
(V. Ramakrishnan)  
Vice Chairman

MB

Heard both the side. Judgment  
reserved.

  
(P.C. Kannan)  
Member - (J)

  
(V. Ramakrishnan)  
Vice Chairman

31-8-2000

Judgment pronounced  
to day in open court  
by Hon'ble Vice Chairman

**CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH, AHMEDABAD**

O.A.No. 205 OF 1992

Ahmedabad this the 31<sup>st</sup> day of August, 2000

**Hon'ble Mr. V. Ramakrishnan, Vice Chairman  
Hon'ble Mr. P.C. Kannan, Judicial Member**

1. Jitendra A. Rami
2. Association of Railway & Post Employees through its Vice President S.N. Babele Having office at Alap Flats, Opp. Anjali Cinema Vasna Road, Ahmedabad-7.

By Advocate: Mr. P.H. Pathak

## VERSUS

1. Union of India  
Notice to be served through  
Divisional Railway Manager  
Western Railway  
Pratapnagar, Baroda.
2. Chief Works Manager  
Engineering Workshop  
Western Railway, Sabarmati  
Ahmedabad.

By Advocate: Mr. N.S. Shevde

## JUDGMENT

## **Hon'ble Mr. V. Ramakrishnan, Vice Chairman**

The applicants whose names are listed at Annexure A-1 have approached the Tribunal seeking the following reliefs:

"(A) The Hon'ble Tribunal be pleased to declare the impugned order at Annexure 'A' directing the applicant employees to work as casual labourers under the respective authorities, as illegal, invalid and inoperative in law and be pleased to quash and set aside the same.

(B) Be pleased to declare the impugned order directing the applicant employees to work on ELA work as casual labourers, without offering any opportunity of being heard to the applicants, as violative of principle of natural justice and also Art. 14 & 16 of the Constitution of India. Be further direct the respondents to treat the applicant employees as regular Khalasi and absorb in the permanent posts.

(C) Be pleased to declare that the applicants cannot be reverted as casual labourers as they are absorbed as regular Khalasi after due screening and continued for more than 5 years, and also their juniors are absorbed as regular Khalasi and therefore, the impugned order is violative of Art.14 & 16 of the Constitution of India.

(D) Any other relief to which the Hon'ble Tribunal deems fit and proper in the interest of justice together with cost."

2. We have heard Mr. Pathak for the applicant and Mr. Shevde for the respondents.

3. The applicants are open line casual labourers and they were continued in Baroda division for long. They contended that they had an expectation for

regularisation as per the rules and instructions followed by the Railways. However, they were given option for engagement in the Concrete Sleepers Factory at Sabarmati in Civil Engineering Department. The relevant portion of the order dated 24.6.1987 as at Annexure A-2 reads as follows:

"In connection with the above, a list of 50 CL Khalasis who have been screened is sent herewith.

You are requested to please engage them as substitute strictly as per seniority. Their lien will be maintained by the respective units from which they have been transferred. Hindi version will follow.

Please acknowledge the receipt of letter."

4. Subsequently the concrete sleeper factory had to be closed and they were declared surplus and as per the letter dated 20.4.1992 as at Annexure A which is impugned in the present OA, they were returned to the parent division. Mr. Pathak says that as they were engaged as open line casual labourers for long period in Baroda division, they had a legitimate expectation for regularisation at that level as per the relevant rules and instructions. He contends that the impugned order gives an impression that they will be screened-fresh as if they are fresh casual labourers which would result in the past service rendered by them as casual labourers being wiped out and this can not be done. The fact that the concrete sleepers factory was closed cannot adversely affect their prospects and the earlier service rendered by them in the respective unit which in this case is Baroda division should be reckoned for assigning seniority to them in the list of casual labourers.

5. Mr. Shevde for the respondents draws attention to the reply statement and brings out that it is not the intention that the applicants' past service as casual labourers would be wiped out or that they were being engaged as fresh casual labourers on closure of the concrete sleepers' factory. He also draws attention to the reply statement. Keeping in view the date of initial engagement they are given due seniority in the list of casual labourers in the division and have since been regularised as per their turn in accordance with the panel position. He states that in view of this, the applicants' apprehension that they are to be treated as fresh casual labourers on closure of sleeper factory is not well-founded.

6. Mr. Pathak had submitted that the Tribunal by its order dated 29.5.92 modified the order dated 22.4.92 and had given some interim direction and as such the applicant would be entitled to pay for the period from 22.4.92 to 8.5.92. He also says that the applicants seniority should be properly maintained and they can not be shown below persons who had rendered less service as casual labourers in the open line on their regular absorption.

7. Mr. Shevde brings out that of the 19 applicants, 14 had been paid their salary for the period 22.4.92 to 8.5.92. He is however not sure about the remaining five. It is possible that they had not reported for duty. However, if the remaining five have any grievance that they have not been paid the wages for the period they actually worked, they can take up the matter with the Railways.

8. As regards the seniority position Mr. Shevde has subsequently made available a memorandum dated 24.2.1992, a copy of which is taken on

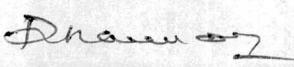
record. The subject of this memorandum is Screening of casual labourers – Engg. Department – BRC Divn. – Surplus staff of SBI. It further says that the following correction/addition/interpolation may be made in the provisional panel issued by letter dated 18.12.91. We find from the memo that the applicant no.1 Balwant Narsing is shown to have worked for 3390 days and his position in the panel is interpolated as 527(A) and his date of engagement is shown as 3.10.1979. Similarly Shri Bharat Dhana the applicant No.2 is shown to have worked for 5798 days and his position in the panel as interpolated is 28(A) and his date of engagement is 11.9.71. Most of the applicants shown at Annexure A are covered by this memorandum except for two. It is clear from this statement that for the purpose of interpolation in the panel for regularisation, the number of days put in by them as casual labourers earlier also had been taken into account as shown from the date of the appointment. In the light of this position Mr. Shevde says the apprehension that the service rendered prior to 1987 would be wiped out is baseless and the Railways have gone on the basis of total service rendered as casual labourers.

9. In the light of the present submission of Mr. Shevde it is clear that the applicants were no longer treated as fresh casual labourers on closure of the sleeper factory. We also record the submission of Mr. Shevde that for the purpose of regularisation the Railways had taken into account the service rendered right from the date of initial engagement which vary from 1971, 76, 78 and 79 etc. Mr. Pathak's apprehension that some persons who had rendered less service as casual labourers might have been shown senior to the applicants *prima facie* not borne out. However, if the applicants make a request for scrutinising the seniority list the Railways shall give access to

them. <sup>Senior</sup> As regards those applicants whose names do not figure in the seniority list, they may also take up the matter with the Railways regarding their seniority if they are still interested and the Railways shall dispose of the same in accordance with the relevant rules and instructions.

10. As regards the other submission of Mr. Pathak regarding the wages for the period from 22.4.92 to 8.5.92 we note that 14 of the 19 applicants had been given such wages. If the remaining five had actually reported for duties and if they have any grievance for not getting the wages for the period, they may make an appropriate representation to the Railways and the Railways shall deal with the same in accordance with the rules and instructions and if they had actually worked, the Railways shall give them salary for the relevant period.

11. With the above observation/direction, the OA is finally disposed of. No order as to costs.

  
**(P.C. Kannan)**  
**Member(J)**

  
**(V.Ramakrishnan)**  
**Vice Chairman**

Vtc.