

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD**

O.A.No. 302/1992

Ahmedabad this the 6th day of October, 2000

Hon'ble Mr. V. Ramakrishnan, Vice Chairman
Hon'ble Mr. A.S. Sanghavi, Judicial Member

1. Paschim Railway Karmachari Parishad
Represented by Raghuvirsingh Sisodia,
Authorised office bearer.
2. Shri Raju B. Patel, Sr.Khalasi and
Member of applicant No.1.

Address for service of notice
Raghuvir Singh Sisodia
Jawahar Chowk, Near Bus Stand
Sabarmati, Ahmedabad.

Applicants

By Advocate: Mr. K. K. Shah

VERSUS

1. Union of India, notice to be
Served through the Chairman
Railway Board, Rail Bhavan,
New Delhi.
2. General Manager,
Headquarter Office,
Western Railway,
Churchgate, Bombay.
3. Divisional Personal Officer,
Divisional Office, Western Railway,
Pratapnagar, Baroda.

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4. Divisional Railway Manager(E)
Divisional Office, Western Railway,
Pratapnagar, Baroda.
 5. Jayant Hirabhai Prajapati
 6. Mukesh Ramjibhai Patel
 7. Umesh Natwarlal Adhyaru
 8. Mahendra Sanabhai Parmar
 9. Manubhai Keshavbhai Prajapati
 10. Nissar Nizamuddin Sheik
 11. Nasir Nizamuddin Sheik
 12. Sufiyankhan Ahmedkhan Pathan
 13. Riyazahmed Mohamedkhan Pathan
 14. Harunrashid Allarakha Khatri
 15. Dinesh Rupabhai Veria
 16. Bhavesh Chandrakant Bhatt
 17. Vivak Arunkumar Pagedar
 18. Ajay Chimantro Marathe
 19. Kamlesh Sudhakar Dhadankar
 20. Vijay B. Chunavala
 21. Gopalbhai S. Bhabhor
 22. Bejoy Mathews
 23. Vijay V Vispute
 24. Mohabatisingh P. Chauhan
 25. Arjunbhai Hiralal Doobi
 26. Masoodul Hasan Samiul Hasan Kazi
 27. Pradeepbhai Ishwarbhai Prajapati
 28. Pillai Rameshkumar Ponnen
 29. Thakorbhai M. Gohil
 30. Patel Salim, Y.
 31. Parekh Hemant B
- Respondents

By Advocate: Mr. N.S. Shevde for R-1 to R-4
Mr. P.H. Pathak for R-5 to R-31.

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ORDER (Oral)

Hon'ble Mr. V. Ramakrishnan, Vice Chairman

We have heard Mr. Shevde for the Railway Administration and Mr. Pathak for the private respondents and have gone through the materials on record.

2. This is a 1992 matter and had been coming up on Board on many occasions. The Tribunal had been persistently observing that as it is an old matter it has to be disposed of without further delay. However, at the request of Mr.K.K.Shah it has been adjourned from 11.8.2000, 29.8.2000, 4.9.2000, 5.9.2000 ^{also}. On 4.9.2000 it was made clear that it was adjourned finally. On 8.9.2000 it was adjourned to 12.9.2000 stating that no further time will be given. On 29.9.2000 Mr.K.K.Shah again prayed for a short adjournment stating that on the next date the matter can be proceeded with positively and it was adjourned to today. Mr.K.K.Shah has filed a sick note today. In the context of the view we are taking in the OA, we do not find it necessary to grant any further adjournment.

3. The applicants who are Paschim Railway Karmachari Parishad and another Raju V. Patel, have approached the Tribunal seeking the following reliefs:

(A) This Hon'ble Tribunal may kindly held that the action of the respondent by issuing the order Annexure A dated 20.1.1992 as illegal and against the para 159 of the I.R.E.M and violative of the

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Article 14 and 16 of the Constitution of India and therefore it is to be quash and set aside and we further declared that their action is against the rules and policy.

- (B) The respondents may be directed to consider the case of the applicant and similarly situated employees by holding that they should also be considered for the post of Apprentices Fitter/Skilled Artisan in the scale of Rs.950-1500 from the date of their appointment or at least from 20.1.92 with consequential benefits.
- (C) Any other order or direction as may be deemed fit in the interest of justice may kindly be passed."

The present OA was filed in the Registry on 2.4.92 that was under objection which were removed in July 1992.

4. Mr. Shevde now brings to our notice that the applicant No.1 had in fact approached the Hon'ble Gujarat High Court seeking the same relief in SCA No.953/92 which was disposed of on 3.4.1992. He draws attention to the High Court's order, which is enclosed in the reply statement as Annexure R-1 which reads as follows:

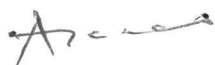
"There is nothing to indicate that the provisions of rule 159 of Indian Railway Establishment Manual is contravened in as much as from the record of the petition, it is not possible to come to the conclusion that panel prepared vide order dated January 20,1992 produced at Annexure 'A' for the suitable candidates for the post of Apprentice Fitter Scale 950-1500 (RP) is in excess of the quota prescribed under Rule 159. It is not correct to say that order Annexure 'A' is in violations of the conditions of service of the petitioner. There is no substance in the petition. Hence rejected. Notice discharged."

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5. In the present case the applicants have challenged the panel of 20.1.92 on the ground that it is in contravention of provisions of para 159 of IREM. The High Court has come to a definite finding on this issue as is clear from the above order. The order of the High Court has become final as it has not been reversed by any higher forum. It is not open to the Tribunal to adjudicate on the issue raised in the present application as it would virtually amount to sitting on appeal against the orders of the High Court.

6. As the High Court has already gone into the same issue regarding the validity of the panel which is impugned in the present case and held that there was no substance in the challenge to the panel, the present OA does not survive as it is barred by res judicata.

7. The O.A is dismissed. No costs.



(A.S. Sanghavi)
Member(J)



(V. Ramakrishnan)
Vice Chairman

Vtc.