

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

M.A.No. 23/93 and  
M.A.No. 159/93 and  
M.A.No. 312/93

~~one~~

O.A. No. 319 OF 1992.  
~~REXXN~~

DATE OF DECISION 13-7-1993

Shri Jayendrabhai Jayantilal Jani, Petitioner

Mr. Bipin P. Jasani,

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent(s)

Mr. B.R.Kyada,

Advocate for the Respondent(s)

## CORAM :

The Hon'ble Mr. R.C.Bhatt, Judicial Member.

The Hon'ble Mr. M.R.Kolhatkar, Amdn. Member.

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 ?

Shri Jayendrabhai Jayantilal Jani,  
Head Clerk, residing at  
T/9/F, Railway Colony,  
Opp: Gujarat Lodge,  
Outside Railway Station,  
Mehsana.

..... Applicant.

(Advocate: Mr. Bipin P. Jasani)

Versus.

1. Union of India,  
Notice to be served through  
The General Manager,  
Western Railway,  
Bombay.

2. The Divisional Railway Manager,  
Rajkot Divisional Office,  
Western Railway,  
Kothi Compound,  
Rajkot.

3. Shri R.S. Virdi,  
The Chairman of Selection Board &  
Senior Divisional Mechanical Engineer,  
Divisional Office, Kothi Compound,  
Rajkot.

..... Respondents.

(Advocate: Mr. B.R. Kyada)

ORAL ORDER

M.A.No. 23/93 &  
M.A.No. 159/93 &  
M.A.No. 312/93  
*in and in*  
O.A.No. 319/92

Date: 13-7-1993.

Per: Hon'ble Mr. R.C.Bhatt, Judicial Member.

None is present for the applicant. Mr.B.R.Kyada  
is present for the respondents. Though none is present  
for the applicant, this application and M.As can be  
disposed of finally in view of the documents which have  
been produced by the respondents with M.A. 159/93

2. The applicant has filed this application under  
section 19 of the Administrative Tribunals Act, 1985,  
seeking the following reliefs:

*per*

"(9) Relief Sought:

In view of the facts and circumstances and grounds mentioned above, the applicant therefore, prays that this Hon'ble Tribunal may be pleased to :

- (A) Allow this application with cost ;
- (B) Direct the Respondent No.2 to declare the result of examination held on 22/4/1992 in case of the applicant and restrain him from cancelling written examination held on 22.4.92 and further be pleased to restrain the applicant for recalling for re-examination;
- (C) Direct the Respondents to promote the applicant on the post of Chief Clerk provisionally; till then, no person should be promoted or appointed on the post of Chief Clerk in any manner;
- (D) Declare that the applicant is eligible and entitled to get promotion on the post of Chief Clerk in the pay-scale of Rs.1600-2600. "

The application was admitted on 28th July, 1992. The main grievance of the applicant was that he ~~xx~~ and another person were directed to appear in a test on 20th April, 1992, Annexure B and instead of declaring the result of that test, the respondents directed them by the letter Annexure C to appear in a fresh test on 13th July, 1992 for which the applicant represented by documents Annexure D dated 7/9th July, 1992. The respondents have filed reply to this application taking several contentions.

3. This Tribunal granted ad interim stay on 28th July, 1992 directing the respondents not to compel the applicant to appear in a second test and also that in case the results of the examination held on 31st March, 1992 which the applicant could not attend, have not yet

been published, the respondents shall not publish upto <sup>it</sup>  
next date of hearing. The respondents filed M.A. 23/93  
for modification of the ~~stay~~ stay praying that the  
respondents be permitted to process and finalise the  
selection by keeping one post of Chief Clerk vacant  
for the applicant subject to the outcome of this case  
and passing the prescribed selection. No reply is filed  
to this M.A by the applicant. The respondents filed  
another M.A. 159/93 on 8th April, 1993 stating that the  
Ministry of Railways, with the approval of the President  
of India, has decided that Group C and D categories  
of employees are to be restructured in accordance with  
the revised percentage indicated in their letter dated  
27th January, 1993 and circulated under GM(E)CCG-S  
letter dated 10th February, 1993, the copy of which is  
enclosed and marked Annexure A. It is further averred  
in this M.A that at the time of implementing the  
instructions of this letter, para 4(2) which says that  
selection which has not been finalised by 31st March,  
1993 should be cancelled/abandoned and the percentage  
of O.S. SC has been increased and the selection under  
process and not finalised are to be cancelled. It is  
further stated in this M.A that in view of the above  
changed circumstances, the selection under question stands  
abandoned and therefore the question of applicant  
,  
appearing again in the examination does not arise and  
therefore, the O.A has become infructuous by virtue of  
the above decision taken by the Ministry of Railways

and therefore, an appropriate order be passed.

4. We have perused closely the letter Annexure A which has been annexed by the respondents along with M.A. 159/93 and in view of the fact that the selection which has not been finalised by 1st March, 1993 has to be cancelled/abandoned and therefore, the question of applicant's appearing in examination again does not arise. Mr. Kyada also stated at the bar that the applicant's learned advocate also feels that now this application has become infructuous.

5. In view of this statement as well as in view of the documents produced with M.A. 159/93 we find that the present O.A. has become infructuous. M.A. 312/93 filed by the respondents to pass appropriate order also now does not survive as the O.A has become infructuous. Hence the following order.

O R D E R

This O.A. has become infructuous and is disposed of accordingly. M.A. 159/93 is allowed and is disposed of. M.A. 23/93 has also become infructuous as O.A. is disposed of. M.A. 23/93 is also accordingly disposed of. M.A. 312/93 now does not survive as the O.A. has become infructuous and disposed of accordingly. No order as to costs.

*M.R.Kolhatkar*

(M.R.Kolhatkar)  
Member(A)

*R.C.Bhatt*

(R.C.Bhatt)  
Member(J)