

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 444/92
T.A.NO.

DATE OF DECISION 16.10.1998Mr. Naranbhai H.

Petitioner

Mr. V.H. Vasawada

Advocate for the Petitioner [s]

Versus

Union of India & Ors.

Respondent

Mr. N.S. Shevde

Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V. Ramakrishnan, Vice ChairmanThe Hon'ble Mr. P.C. Kannan, Member (J)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 Lerdships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

Naranbhai Rajabhai,
Dhrangadhra Colony,
Old Junction M-12/B,
Surendranagar.

... Applicant

(Advocate: Mr. V.H. Vasawada)

VERSUS

1. The Union of India,
through
The General Manager,
Churchgate,
Bombay.
2. Divisional Railway Manager,
DRM Office,
Kothi Compound,
Rajkot.
3. David Thomas,
Fireman cum Shunter,
Locoshed, Technical staff,
Mehsana Railway Station,
Western Railway,
Mehsana.

... Respondents

(Advocate: Mr. N.S. Shevde)

ORAL ORDER

O.A./444/92

Dated: 16.10.1998

Per: Hon'ble Mr. V. Ramakrishnan, Vice Chairman

Neither the applicant nor his counsel is present. They have been absent on earlier occasions also. Notice was issued initially to the counsel which has come back unserved with a remark 'left'. Another notice was issued to the applicant which has been duly acknowledged. However the applicant is not present today. It would seem that the applicant is not interested in prosecuting the OA. The OA is dismissed for default. No costs.

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

hki

Other
(V. Ramakrishnan,
Vice Chairman)

DATE	OFFICE REPORT	ORDER
19.01.99		Adjourned to 19.02.99. (P.C. Kannan) Member (J) mb
19.2.99		Seen resolution of the Bar Association that as a mark of respect to the memory of late Mr. Harish Chaudhary, an advocate in Surat, the lawyers are abstaining from work today. Adjourned to 1.4.1999.
1.4.99		(V.Ramakrishnan) Vice Chairman vtc.
11.5.99		MR. Trivedi not present. Adjourned to 11.5.99. (P.C.Kannan) Member (J) vtc. Mr. Trivedi was ^{present} earlier but not now. Adjourned to 5.7.99.
5.7.99		(P.C. Kannan) Member (J) nsh At the request of Mr. Shevde, adjourned to 16.8.1999. (A.S.Sanghavi) Member (J) vtc.

DATE	OFFICE REPORT	OR D E R
16.8.99		Adjourned to 13.9.1999.
13/9/99	(A.S.Sanghavi) Member (J)	(V.Ramakrishnan) Vice Chairman
	vtc. Place it before Division Bench on 18/10/99.	
18.10.99		(V.Ramakrishnan) Vice Chairman
	Mr.Trivedi not present. Mr. Shevde prays for a short time. Adjourned to 15.11.1999.	
	(P.C. Kannan) Member (J)	(V.Ramakrishnan) Vice Chairman
	vtc.	
15.11.99		As a mark of respect to the memory of advocate late Shri V.S.Mehta, the lawyers are abstaining from work today. Adjourned to 17.12.99.
	(A.S.Sanghavi) Member (J)	(V.Ramakrishnan) Vice Chairman
	vtc.	

DATE	OFFICE REPORT	ORDER
18.01.99	• Cert. of Service of summons (Harish Chaudhary) present only	Adjourned to 19.02.99, <u>DR</u> (P.C. Kannan) Member (J) mb
19.2.99		Seen resolution of the Bar Association that as a mark of respect to the memory of late Mr. Harish Chaudhary, an advocate in Surat, the lawyers are abstaining from work today. Adjourned to 1.4.1999. <u>VR</u>
1.4.99	Mr. Trivedi not present. • Cert. of Service of summons (V. Ramakrishnan) Vice Chairman	(V. Ramakrishnan) Vice Chairman Adjourned to 11.5.99. <u>DR</u> (P.C. Kannan) Member (J) mb
11.5.99	Mr. Trivedi was earlier but not now. Adjourned to 5.7.99.	(V. Ramakrishnan) Vice Chairman <u>VR</u>
5.7.99	At the request of Mr. Shevde, adjourned to 16.8.1999. <u>DR</u> (A.S. Sanghavi) Member (J) nsh	(V. Ramakrishnan) Vice Chairman <u>VR</u>
	vtc.	

DATE	OFFICE REPORT	ORDER
16.8.99		Adjourned to 13.9.1999. A (A.S. Sanghavi) Member (J)
		V (V. Ramakrishnan) Vice Chairman
13.9.99	vtc. Place it before Division Bench on 18.10.99.	Division Bench v (V. Ramakrishnan) Vice Chairman
18.10.99	Mr. Trivedi not present. Mr. Shevde prays for a short time. Adjourned to 15.11.1999. DW (P.C. Kannan) Member (J)	V (V. Ramakrishnan) Vice Chairman
15.11.99	As a mark of respect to the memory of advocate late Shri V.S. Mehta, the lawyers are abstaining from work today. Adjourned to 17.12.99. A (A.S. Sanghavi) Member (J)	V (V. Ramakrishnan) Vice Chairman
	vtc. 18.11.99	
		(V. Ramakrishnan) Vice Chairman

Date	Office Report	ORDER
15.2.2000	<p>of attorney, learned friend, Heard. Oral order dictated in the open Court. In view of the above, it is directed that the said oral order be recorded in the minutes of the meeting of the Board of Directors of the Company.</p> <p>in favour of V. Ramakrishnan, Vice Chairman</p> <p>vtc. <i>(A.S.Sanghavi)</i> Member (J)</p> <p><i>(V.Ramakrishnan)</i> Vice Chairman</p>	<p>15.2.2000</p> <p>of attorney, learned friend, Heard. Oral order dictated in the open Court. In view of the above, it is directed that the said oral order be recorded in the minutes of the meeting of the Board of Directors of the Company.</p> <p>in favour of V. Ramakrishnan, Vice Chairman</p> <p>vtc. <i>(A.S.Sanghavi)</i> Member (J)</p> <p><i>(V.Ramakrishnan)</i> Vice Chairman</p>

Date	Office Report	RECORDED	ORDER	JUDGE	Office Report	FILED
17.12.99	(Handwritten): V. Sanghavi (J)		<p>Heard Mr. Trivedi, learned advocate for the application OA/444/92 and Mr. N.S. Shevde for the respondents on MA/19/99. The M.A. is moved by the applicant for restoration of the OA/444/92 dismissed for default on 16.10.98. The main ground on which this M.A. is moved is that the name of the learned advocate for the applicant was not shown on the Board on which the matter had come up for hearing and therefore the learned advocate for the applicant had no knowledge and he did not attend to the matter. This is brought out by the respondents that the name of the applicant's advocate was shown on the Board and hence there appears to be sufficient reason for setting aside the orders passed for default and the same is set aside and O.A. is restored. The O.A. 444/92 is allowed to be restored with no orders as to costs.</p> <p>the OA/444/92 be listed out for a final hearing on 27.1.2000.</p> <p style="text-align: right;">A. S. Sanghavi (A. S. Sanghavi) Member (J)</p> <p>pmr</p>			
27.01.2000			<p>Mr. Vasavada and Mr. Trivedi not present.</p> <p>Mr. Shevde present. Call on 15.02.2000.</p> <p style="text-align: right;">V. Ramakrishnan (V. Ramakrishnan) Vice Chairman</p> <p>MB</p>			

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABADBENCH, AHMEDABAD**

O.A.No.444/1992

Ahmedabad this the 15th day of February, 2000.

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

Naranbhai Hajabhai
Dhrangadhra Colony
Old Junction M-12/B
Surendranagar.

Applicant.

By Advocate: Mr.V.H.Vasawada
And Mr. M.S. Trivedi.

VERSUS

1. The Union of India, through
General Manager,
Churchgate, Bombay.
2. Divisional Railway Manager
DRM Office,
Kothi Compound, Rajkot.
3. David Thomas
Fireman gum Shunter
Loco Shed, Technical staff
Mehsana Railway Station
Western Railway, Mehsana. Respondents.

By Advocate: Mr. N.S. Shevde

ORDER (Oral)

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

We have heard Mr. Shevde and gone through the materials on record.

2. The applicant, who was working as First Fireman, is aggrieved by the orders of the Railway Administration which promotes some persons as Steam Shunters which is a promotional post for Fireman/Diesel Assistant, Electric Assistant etc. He contends that the Railway Administration had promoted a number of his juniors, by an order dated 17.6.92 and also by another order dated 27.8.92 to the level of Steam Shunters.

3. Mr. Shevde submits that the applicant has chosen to challenge two orders which he can not do. He also brings out that the recruitment to the post of Steam Shunter is covered by the Railway Board letter dated 3.11.97, copy of which is at Annexure R-1. There are two quotas, one on the basis of seniority cum fitness without any restriction of age or qualification and the other available to those who have minimum educational qualification of 8th standard and who are not more than 50 years of age. He contends that the applicant was not senior enough to come within the first quota. As regards the second quota he did not fulfil the requisite condition as he had exceeded 50 years of age at the time of selection. Mr. Shevde says that nobody who is junior to the applicant has been promoted against the first quota and the so called juniors are those who come within the 33 1/3% quota where certain conditions are stipulated.

4. We find from the Railway Board circular in para 4 (iii) dated 3.11.87 that the vacancies in the grade of Steam Shunters may be filled as under:

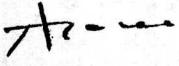
(a) 66 2/3% of the vacancies of Steam Shunter will be filled from amongst First Fireman/Diesel Asstt./Electric Asstt. on the basis of seniority-cum-suitability without any restrictions of age or qualification, (b) the remaining 33 1/3% of vacancies will be filled from amongst First Fireman/Diesel Asstt./Electric Assistants who have the minimum educational qualification of 8th class and are not more than 50 years of age.

There were 79 vacancies available of which 53 was meant for those who come within the seniority cum suitability quota and 26 for those who have passed 8th standard and have not attained 50 years of age. We find that the last person who has come within the seniority cum suitability quota i.e., against 66 2/3% quota is Sunderji in the order dated 27.8.92 and Usman in the order dated 17.6.92. Sunderji's position in the seniority list is 150 and that of Usman is 297. We find from the seniority list, copy of which is at Annexure D that the applicant's S.No. is 301. This is in fact brought out by the applicant himself in para 5 of the OA. As such none of the persons promoted within 66.2/3% quota is junior to the applicant. As regards 33 1/3% quota the respondents have stated that the applicant is not qualified. We also find from the seniority list that his date of birth is 27.12.1940 and that he would have crossed 50 years of age by December 1990 at the time of selection which was held in middle of 1992. He was thus over 50 years of age and was not eligible to compete against the 33 1/3% quota. We do not find any irregularity in the selection conducted by the Railways. The fact that some of his juniors have been promoted as Steam Shunters against 33 1/3%

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quota is not arbitrary or discriminatory when the applicant had not got the requisite qualification under the relevant rules to compete against this quota..

5. We do not find any merit in the OA which is dismissed with no order as to costs.


(A.S.Sanghavi)
Member(J)


(V.Ramakrishnan)
Vice Chairman

Vtc.