

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

O.A. No. 348 of 1993

Date of decision : 16.10.2000

Mr. Bhavarsinh Laxman Sinh : Petitioner [s]

Mr. M. S. Trivedi : Advocate for the petitioner [s]

Versus

Union of India & Ors. : Respondent [s]





Mr. N.S. Shevde : Advocate for the Respondent [s]

CORAM :

THE HON'BLE MR. A. S. SANGHAVI : **MEMBER (J)**

THE HON'BLE MR. G. C. SRIVASTAVA : **MEMBER (A)**

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 ? 

Shri. Bhavarsinh Laxman Sinh
Khalasi, Railway Inspector,
Works-II, Dahod.

= Applicant =

Advocate : Mr. M. S. Trivedi

Versus

1. Union of India (through),
The General Manager, W. Rly.,
Church gate, Mumbai-20.
2. The Divisional Rly., Manager,
W. Rly., Yard,
P.O. Ratlam (M.P.).
3. The Assistant Engineer (Civil) II,
Rly., W. Rly., Yard,
P.O. Dahod,
Dist : Panchmahal.

= Respondents =

Advocate : Mr. N. S. Shevde

JUDGMENT
O.A 348 of 1993

Date : 16/10/2000

Per Hon'ble Shri. A.S. Sanghavi : Member (J).

The applicant who is working as a Khalasi at Dahod under the respondent no.3 is aggrieved by the fact that he has not been given any promotion and contending that he is entitled / eligible for promotion, has prayed that he be given promotion from the date when his juniors were promoted. According to the applicant he was initially engaged as Khalasi on 21.7.1960 and in spite of his putting up more than 20 years of service he has not been given a single promotion. He attributes this factor to the bias and prejudice towards him by the authorities and contends that he has been

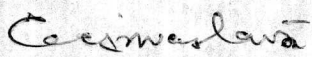
victimised by the department. He was suspended from 9.3.88 to 26.5.88 and after revocation of the suspension the period was treated as duty by the department. He was imposed penalty of withholding of increment for a period of six months but the same was subsequently reduced to a period of three months. The applicant has also contended that even though there was no break in his service the departmental record shows that he was re-appointed on dated 21.7.68 though he had been continuously in service from 21.7.60. According to him he had preferred a representation, but the same has remained unanswered.

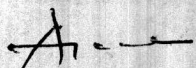
2. The respondents in their reply have denied the allegations of the applicant that on account of the prejudice or bias attitude towards the applicant he was not considered for promotion and was not given any promotions. They have admitted that the applicant was initially appointed as a Khalasi on 21.7.1960 and that he has not received any promotion in his service. They have however contended that he was removed from the service w.e.f. 26.7.68 as he was convicted by the Court on a criminal charge under Section 66 (B) and 85 (1) (b) of the Bombay Prohibition Act, 1949 by Judicial Magistrate, 1st Class, Baria. He was however, re-appointed on consideration of his mercy appeal by order dated 7.11.68 and was posted as Gangman under PWI, Dahod treating this to be a fresh appointment for all purpose. In view of this position the date of the appointment of the applicant is considered to be 28.11.68 and not that of the 1960. They have denied that number of juniors to the applicant are given promotion after the re-appointment of the applicant and have further contended that the applicant has not passed the trade test for promotion to

class-III and hence cannot be considered for promotion. He was called for the trade test in 1989-90, but he had failed to clear the said test. Since he failed to clear the trade test he cannot be promoted to the post of Fitter Grade-III. He has therefore been performing the duty and function of Khalasi only.

3. The applicant has not filed any rejoinder to the reply of the respondents. Hence, contentions raised in the reply by the respondents have remained un-rebutted and there is no reason not to believe the same. The reply of the respondent makes it amply clear that the applicant had failed to clear the trade test essential for the purpose of promotion to Grade-III and since he had failed to clear the trade test, had not been eligible for promotion to the higher grade. The grievance made by the applicant that he has not received a single promotion in his long service is therefore clearly misplaced. There is no substance in the allegation of the applicant that he has not been given any promotion due to prejudice and bias of the department. We also do not find any substance in the allegation that his juniors are given promotion and he has not been considered for the promotion. The respondents have clearly denied that no junior to the applicant is given promotion and this denial has not been rebutted by the applicant by filing rejoinder or by adducing any sufficient evidence to show that his juniors were given promotion ignoring his claim for promotion. However, the grievance is misplaced in view of the fact that promotion to Grade-III is only on passing the trade test and since the applicant had failed to clear the trade test, there was no question of his becoming eligible for promotion. It is pertinent to note that the applicant has conveniently forgotten to mention in this O.A that he

has appeared in the trade test and had failed to clear the same. It is also seen that the applicant has not given the name of any of his juniors who were promoted ignoring his own claims. We therefore do not find any merit in this O.A and are of the opinion that the O.A deserves to be rejected. In the conclusion therefore the O.A is rejected with no order as to costs.


(G.C. Srivastava)
Member (A)


(A.S. Sanghavi)
Member (J)

Mb

