

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 483/93
T.A. NO.

DATE OF DECISION 06/12/1996

Jayantilal Nanalal Thakar **Petitioner**

Mr. M. M. Xavier **Advocate for the Petitioner [s]**
Versus

Union of India & Ors. **Respondent**

Mr. R. M. Vin **Advocate for the Respondent [s]**

CORAM

The Hon'ble Mr. V. Radhakrishnan : Member (A)

The Hon'ble Mr.

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 ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal ?

Jayantilal Nanalal Thakar,
Samadhiyala (GIR)
Taluka Mendarda,
Dist.Junagadh.

: Applicant

(Advocate Mr.M.M.Xavier)

Versus

1. The Chairman,
Railway Board,
Rail Bhavan,
New Delhi.
2. The Union of India Owning &
Representing Western Railway,
Through its General Manager,
Western Railway, Churchgate,
Bombay.
3. The Divisional Railway Manager,
Western Railway, Bhavnagar Div.,
Bhavnagar Para.
4. The Traffic Inspector,
Western Railway, Bhavnagar Div.,
Bathia (New Dhas Junction) : Respondents

(Advocate: Mr.R.M.Vin)

ORAL ORDER

O.A.483/93

Date: 06/12/1996

Per: Hon'ble Mr.V.Radhakrishnan : Member (A)

The case has been taken up for hearing at the request of Mr.Xavier and with the consent of Mr.Vin. We have heard both the learned counsels.

2. The applicant in the above mentioned O.A. was casual labourer who had worked under the control of D.R.M.. Bhavnagar for different periods of time. The main grievance of the applicant is that his name was not been placed in the Live Register maintained by the respondents. The applicant has annexed/copy of certificate issued by his superior authorities in support of his having worked as casual labourer. His main relief is regarding placing his name in the Live Register as per rules and to give proper seniority and subsequently to give reemployment to him in his turn.

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After the application is filed Mr. Xavier, the learned counsel for the applicant stated that the applicant was prepared to forego his seniority in the Live Register and is prepared to be placed at the bottom of the Register and on that basis delay in filing the application was condoned and the application was admitted.

3. Mr. Xavier states that at present the recruitment of casual labourers is going on and if the case of the applicant is not considered, he may lose his right of the appointment. He is prepared to persuade the applicant to put forward his case along with whatsoever documents that may be available with him, so that the respondents can then verify his claim and take necessary action to place him in the Live Register at bottom seniority. Accordingly the applicant is directed to produce the necessary documents through ~~his~~ advocate Mr. Xavier to the ^{his} DRM or his representative on a date to be given by the DRM and after taking into account the evidence produced by him the respondents are directed to examine the case with reference to the records available with them i.e. casual labourer register and/or original paid voucher maintained by them as per Sub-Rule (V) of Note 2, Rule 2001 of I.R.E.M. Vol. II, 1990 Edition. Incidentally Mr. Xavier for the applicant states that in fact such a verification with reference to the paid vouchers had been made by the respondents in 1994 for reengaging some casual labourers and that too with original dates of engagement as far back as 1961. After completing

Ab

the above exercise if the claim of the applicant is proved to be genuine his name shall be placed at the bottom of the Live Register and he shall be reengaged per his turn by the respondents. In case the application is rejected the respondents shall suitable speaking order. The above exercise shall be completed by the respondents within 45 days from of receipt of a copy of this order. In case the order of the D.R.M. is against the applicant, he shall be at liberty to revive the O.A. if so advised. In case the above directions, the above O.A. stands dismissed. No order as to costs.

AK
(V. Radhakrishnan
M.C.

Office Report

ORDER

11

Leave note filed by Mr. Vin, adjourned to 25.11.98.

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

VR
(V. Radhakrishnan)
Member (A)

nkk

25-11-98

Mr. Xavier present. At the request of Mr. Vin, adjourned to 27-1-99.

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

VR
(V. Radhakrishnan)
Member (A)

pt

27-1-99
(MA 375/98)
Amendment
Carried out in
10-3-99

Mr. Xavier and Mr. Vin are present. At the request of Mr. Xavier, for filing rejoinder, to the reply to the amended O.A., adjourned to 24-3-99.

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

VR
(V. Radhakrishnan)
Member (A)

Pt

Mr. Xavier counsel for the applicant is not present. Mr. Vin counsel for the respondents is present. Adjourned to 9.6.99.

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

VR
(V. Radhakrishnan)
Member (A)

nkk

| Date | Office Report | RECD/CDPO | ORDER | RECD/CDPO |
|---------|---|-------------|--|--|
| 15.4.98 | <i>Re: Under listed Sick note of Mr. Xavier</i> | | Sick note filed by Mr. Xavier. Being a Division Bench matter, adjourned to 8.5.98. | <i>Ar</i> (V.Radhakrishnan) Member (A) |
| 8.5.98 | | SNS* | Leave note filed by Mr. Xavier. Adjourned to 8.7.98. | <i>Ar</i> (P.C.Kannan) Member (J) (V.Radhakrishnan) Member (A) |
| 7.7.98 | | *SN | 8.7.98 is a declared holiday. | <i>Ar</i> <u>MA/692/97</u> Under the circumstances stated, M.A. for revival allowed. O.A. restored to file. MA/692/97 stands disposed of accordingly. <u>OA/483/93</u> May be listed for final hearing 19.8.1998. |
| 19.8.98 | | npm | Both the learned advocates are present. M.A. for amendment is allowed. Amendment may be carried out within two weeks. MA/375/98 stands disposed of. Reply to MA/375/98 filed by Mr.R.M.V. on record. Adjourned to 7.10.1998. | <i>Ar</i> (P.C.Kannan) Member (J) (V.Radhakrishnan) Member (A) <i>Ar</i> (V.Radhakrishnan) Member (A) |

VICE REPORT

ORDER

DATE

9.6

None present for the parties. Adjourned to 21.7.99.

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

DR
(V.Radhakrishnan)
Member (A)

nkk

Being a Division Bench matter, adjourned to 15.9.99

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

nkk

15.9.99

Sick note filed by Mr.Xavier. Mr.Vincis present. Adjourned to 20.10.99.

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

DR
(V.Radhakrishnan)
Member (A)

nkk

20.10.99

Heard Mr. M.M. Xavier and Mr. R.M.V.

MA/375/99 :-

MA for amendment is allowed.

Necessary amendment may be carried out within one week. MA/375/99 is disposed of accordingly.

MA/692/97 has already been disposed of on 7.7.98/ which may not be shown on the board. Adjourned to 24.11.99.

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

DR
(V.Radhakrishnan)
Member (A)

Pt

(11)

| DATE | OFFICE REPORT | ORDER |
|-----------|---|--|
| 24.11.99 | | Division Bench matter. Adjourned to 19.1.2000. |
| | (i) (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x) (y) (z) | <i>Ar</i> (A.S.Sanghavi) Member (J) |
| 19.1.2000 | | Place it before the Division Bench on 8.3.2000. |
| | (i) (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x) (y) (z) | <i>Am</i> (P.C.Kannan) Member (J) |
| 8.3.2000 | | Division Bench matter. Adjourned to 9.5.2000. |
| | (i) (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x) (y) (z) | <i>Ar</i> (A.S.Sanghavi) Member (J) |
| 20.7.2000 | As the learned Member of the Bench is not available the matter adjourned to 20.7.2000 <i>Arcoff</i> | Division Bench matter. Adjourned to 31.8.2000. |
| | (i) (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x) (y) (z) | <i>Ar</i> (A.S. Sanghavi) Member (J) |

(16)

OA/483/93

| DATE | कार्यालय टिप्पणी OFFICE REPORT | आदेश ORDER |
|-----------|-----------------------------------|--|
| 31.8.2000 | | Division Bench matter. Adjournded to 14.9.2000. |
| 14/9/00 | | nkk For want of time, adj. to 5/10/00 |
| 5.10.2000 | | (G.C. Srivastav) Member (A) (A.S. Sanghavi) Member (J) |
| 2,11.2000 | | None present for the parties. Division Bench matter. Adjourned to 2.11.2000. |
| | | (G.C. Srivastava) Member (A) |
| | | Pkn |
| | | Mr. Xavier has filed sick note. Mr. Vin, for the respondents is not present. it is a 1993 matter, last given for the parties to present and make the sub Adjo rned to 30.11.2000 |
| | | (G.C. Srivastava) Member (A) (A.S. Sanghavi) Member (J) |
| | | Pkn |

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| तारीख DATE | कार्यालय टिप्पणी OFFICE REPORT | आदेश ORDER |
|---------------|--|--|
| 30/11/00 | | <p>Heard Mr. R. M. Vira for the respondents. Mr. M. M. Xavier is not present. Judgment Reserved.</p> <p>(G. C. Srivastava) (A. S. Sanghvi) Member (A) Member (J)</p> |
| 31/11/01 | Judgment pronounced. OA rejected. राया 31/11/01 | |

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

OA/483/1993

Date of Decision : 05.01.2001

Shri. Jayantilal N. Thakar : Petitioner (s)

Mr. Xavier M. M. : Advocate for the petitioner [s]

Versus

Union of India & Ors. : Respondents [s]

Mr. R. M. Vin : 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? *✓*

Jayantilal Nanalal Thakar,
Samadhiyalal (GIR.)
Taluka Mendarda,
Dist : Junagadh - 362 260.

- Applicant -

Advocate : Mr. Xavier M. M.

Versus

1. The Chairman,
Railway Board,
Rail Bhavan,
New Delhi - 110 011.
2. The Union of India Owning &
Representing Western Railway,
Through its General Manager,
W. Rly., Church gate,
Bombay - 400 020.
3. The Divisional Railway Manager,
W. Rly., Bhavnagar Division,
Bhavnagar Para - 364 003.
4. The Traffic Inspector,
W. Rly., Bhavnagar Division,
Lathi (New Dhas Junction).
5. Brijeshkumar Harishanker,
Casual Labourer, under
CIOW-BVP. (Notice to be served
Through Chief Inspector of Works,
W. Rly., Bhavnagar Para).
6. Dinkar Bachubhai,
Substitute Gangman,
Under Assistant Engineer, W. Rly.,
Bhavnagar Division, Botad.
(Notice to be served through
Assistant Engineer, Botad)

7. Mohmedmiya Abamiya,
Casual Labourer,
Under Assistant Engineer,
W. Rly., Bhavnagar Division,
Junagadh. (Notice to be served
Through the Assistant Engineer,
Junagadh).

- Respondents -

Advocate : Mr. R. M. Vin

JUDGMENT
O.A 483 of 1993

Date : 05/01/2001

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

This O.A was earlier decided on dated 6.12.96 by my learned brother Mr. V. Radhakrishnan, Member (A) with the following directions to the respondents :-

"3. Mr. Xavier states that at present the recruitment of casual labourers is going on and if the case of the applicant is not considered, he may loose his right of the appointment. He is prepared to pursuade the applicant to put forward his case along with whatsoever documents that may be available with him, so that the respondents can then verify his claim and take necessary action to place him in the live register at bottom seniority. Accordingly the applicant is directed to produce the necessary documents through his advocate Mr. Xavier to the DRM Bhavnagar or his representative on a date to be given by the DRM and after taking into account the evidence produced by him the respondents are directed to examine the case with reference to the records available with them i.e. casual labourer register and / or original paid voucher maintained by them as per Sub-Rule (V) of Note 2, Rule 2001 of I.R.E.M. Vol. II, 1990 Edition. Incidentally Mr. Xavier for the applicant states that in fact such a verification with reference to the paid vouchers had been made by the respondents in 12994 for re-engaging some casual labourers and that too with original dates of engagement as far back as 1961. After completing the above exercise if the claim of the applicant is proved to be genuine his name shall be placed at the bottom of the Live

Register and he shall be re-engaged as per his turn by the respondents. In case the application is rejected the respondents shall pass a suitable speaking order. The above exercise shall be completed by the respondents within 45 days from the date of receipt of a copy of this order. In case the decision of the D.R.M. is against the applicant, he will be at liberty to receive the O.A if so advised. With the above directions, the above O.A stands disposed of. No order as to costs."

2. After the above directions were given, the applicant appears to have moved the authorities concerned for enlistment of his name in the live register. However, according to the applicant the DRM by his speaking order dated 15.4.97 has rejected the representation of the applicant for being enlisted in the live register. The applicant therefore moved the M.A 692 of 97 on dated 10.7.97 for revival of this O.A and as per the order dated 7.7.98, this M.A. was allowed and the O.A is revived.

3. Mr. Xavier for the applicant has made a grievance that even though specific directions were given by this Tribunal the respondents have not considered the case of the applicant and on the grounds extraneous rejected the application of the applicant. Unfortunately, neither the applicant nor the respondents have brought on record the copy of the speaking order on record and we are therefore not in a position to find out on what ground the DRM has rejected the application of the applicant. When it is not known on what ground the application is rejected, we cannot conclude that the said order is baseless, illegal or misconceived or perverse. We also cannot come to a definite conclusion as to whether the relief prayed for in this O.A deserves to be allowed or

not. We had once already directed the respondents to consider the representation of the applicant after verifying his claim on the production of the documents that may be available with him and take necessary action to place him in the live register at bottom seniority. Since speaking order is not brought to our notice and the copy of the said order is not made available to us, it is not possible for us to find out whether any documents were made available to the DRM by the applicant and whether the DRM had verified the claim of the applicant and found the same to be untenable. Under the circumstances, we are not in a position to give any direction to the respondents. The O.A therefore deserves to be rejected and in the conclusion, we reject the O.A with no order as to costs.

Cecorator
(G.C. Srivastava)
Member (A)

A. —
(A.S. Sanghavi)
Member (J)

Mb

FORM NO. 21
(See Rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD BENCH

OA/TA/RA/GP/ 483/93 of 200

M. D. N. Thaker.

APPLICANT (S)

VERSUS

4.08.2021

RESPONDENT (S)

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Certified that the file is complete in all aspects.

Kumar
19/1/01

Signature of S.O. (K)

✓
Signature of Dealing Hand.