

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

OA.No.527/93

:Date of Decision 13.8.99

Shri I.B.Sarvaya & Ors.

:Petitioner(s)

Mr.P.H.Pathak.

: Advocate for the petitioner(s)

Versus

Union of India & Ors.

: Respondent(s)

N.S.Shevde

: Advocate for the respondent(s)

CORAM

Hon'ble Mr. V. Radhakrishnan

: Member(A)

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 Lordships wish to see the fair copy of the Judgment?
4. Whether it needs to be circulated to other Benches of the Tribunal?

23

1. Shri I.B.Sarvaya
2. Shri M.M.Thakkar
3. Shri J.K.Bhatt

: Applicants

Advocate: Mr.P.H.Pathak

Versus

1. Union of India,
Owning Western Railway &
Through: The General Manager,
Western Railway,
Churchgate, Bombay-20.
2. The Divisional Railway Manager,
Western Railway,
Kothi Compound,
Rajkot.

: Respondents

Advocate: Mr.N.S.Shevde

JUDGMENT

OA/527/93

Date:13/8/99

Per: Hon'ble Mr.V.Radhakrishnan

: Member(A)

Heard Mr.P.H.Pathak and Mr.N.S.Shevde, learned advocates for the applicant and the respondents respectively.

The applicants in this case are working as Ticket Collectors/Senior Ticket Collectors. They state that the Respondents have declared the Telegraph Signallers as surplus and they have been absorbed in the category of Ticket Collectors with their own seniority. It has resulted an adverse effect to the applicants' chances for further promotion as most of the surplus Telegraph signallers are having number of years service .

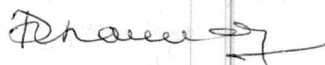
The applicants had originally challenged the absorption of Telegraph Signallers / Ticket Collectors. During the discussion at the bar, Mr.Pathak learned counsel for the applicants stated that he is now restricting his prayer in the O.A.to the allotment of seniority of the Telegraph signallers in Ticket Collector Grade. In other words he stated that the surplus Telegraph signallers could be absorbed in the category of Ticket Collectors and their seniority could be placed at the bottom of the grade of Ticket collectors.

The respondents have stated that a meeting was held with the recognised union in which it was decided that the seniority of the surplus Telegraph Signallers who were absorbed will be counted from their original date of appointment. They have stated that number of additional posts have been created in Ticket Collector category and the surplus signallers were absorbed in the Ticket Collector grade as per extant rules.

We have heard both the learned advocates and gone through the documents on record. The question of determining the seniority of the redeployed staff has now been decided by the Hon'ble Supreme Court in the case of V.K.Dubey vs. Union of India (1997) 5 SCC 81 where in the question of seniority of redeployed Diesel engine drivers and staff working was raised consequent to their transfer as Electric Engine Drivers. The Hon'ble Apex Court has mentioned that "Consequent upon the gradual displacement of diesel engines, instead of retrenching them from service they were sought to be absorbed by giving necessary training in the trains operating on electrical energy. As a consequence, they were shifted to a new cadre. Under these circumstances, they cannot have a lien on the posts on electrical

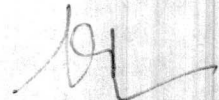
side nor can they be entitled to seniority over the staff regularly working in the electrical locomotive department. Under these circumstances, this Court has held that they cannot have a seniority, over them. Consequently, the Hon'ble Supreme Court upheld the judgment of the Tribunal that the seniority of the redeployed staff is required to be adjudged from the date of their deployment in the electrical operations and the previous service cannot be counted for the purpose of determination of inter se seniority.

In view of the above judgment, we allow the OA and quash and set aside the impugned order dated 5.8.93 at Annexure A-5 giving original seniority to the Signallers absorbed as Ticket Collectors . The seniority of deployed signallers shall be determined in accordance with the judgment of the Hon'ble Supreme Court (supra) i.e. from the date of joining to the new cadre and not with reference to their original seniority as Signallers. No costs.



(P.C.Kannan)

Member(J)



(V.Radhakrishnan)

Member(A)

SCA/206/00

207/52/93

Wtm

SCA/3857/04

207/491/93

SR. NO. 44

REGISTER NO. R/4

PAGE NO. 24

DATE: 7/5/04

RESPECTFULLY SUBMITTED TO : HON'BLE VICE CHAIRMAN
HON'BLE MEMBER (J) (J) (J)
HON'BLE MEMBER (A) (A) (A)
HON'BLE MEMBER () () ()

Certified Copy of order dated _____ in C.A.
Special C.A. No. 206/00 of _____ passed by the
Hon'ble Supreme Court / Hon'ble High Court against the
Judgment / Oral Order passed by this Tribunal in DA. No.
527/93 placed for perusal please.

Verbal
7/5/04
Dealing Clerk

S. J.
7/5/04
S.O. (J)

3/5/04
D.R. (J)

10/11
Registrar

HON'BLE VICE CHAIRMAN

HON'BLE MEMBER (J)

HON'BLE MEMBER (A)

HON'BLE MEMBER ()

Seen
12/10/5

Sup

Sw

WRIT

Dispatch No.

(TO BE RETURNED TO THIS COURT/TO BE SERVED ON RESPONDENT NO.)

(TO BE RETURNED TO THIS COURT DULY EXECUTED)

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

Special Civil Application No 706 of 2000

Fixed on :

District AHMEDABAD

Petitioner(s) Advocate

MR MUKESH A PATEL

UNION OF INDIA

& 1

Vs

BM RAVAL

& 14

Opponent(s).

To

1. THE REGISTRAR

CENTRAL ADMINISTRATIVE
TRIBUNAL AHMEDABAD BENCH,
OPP. SARDAR PATEL STADIUM,
AHMEDABAD

UPON Reading the petition of the abovenamed petitioner(s) presented this Court through his/her/their Advocate MR MUKESH A PATEL praying that during the pendency and final disposal of this petition the implementation of the judgment/order passed by the Central Administrative Tribunal in O.A.No.527/93 may be stayed.

And Whereas Upon hearing MR MUKESH A PATEL, Advocate for the petitioner, and MR SHALIN N MEHTA for Respondent No. 6, 7, 8, 9,10,11,12,13,14,15 Court passed the following order :-

S.C.A. No.3857/2004 with S.C.A. No.706/2000

CORAM: BHAWANI SINGH, C.J. & H.K. RATHOD, J. (Dt. 29.3.04)

Rule. Subject to hearing the other side, order dated August 13, 1999 is stayed till further orders.

It is hereby accordingly ordered that subject to hearing the other side, the execution, operation and implementation of the order dated August 13, 1999, passed by you (i.e. the Central Administrative Tribunal Ahmedabad Bench) in Original Application No.491 of 1993, be and are hereby stayed till further orders.
Witness BHAWANI SINGH, Esquire Chief Justice

at Ahmedabad aforesaid this 29th day of Mar. 2004

By the Court.

Deputy Registrar

This 28th day of Apr 2004

True Copy

Deputy Registrar.

Dispatch No.

WRIT

(TO BE RETURNED TO THIS COURT/TO BE SERVED ON RESPONDENT NO.)

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at Ahmedabad aforesaid this 29th day of Mar, 2004

By the Court.

Deputy Registrar

This 28th day of Apr 2004

True Copy

Deputy Registrar.

CENTRAL ADMINISTRATIVE TRIBUNAL, DELHI

Application No. [REDACTED]

of 19 . . .

CA/527/93

Transfer application No. [REDACTED]

Old Write Pet. No.

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided).

Dated: 20/8/99

Countersigned.

[REDACTED] on Officer/Court Officer.

20/8/99

Signature of the Dealing Assistant.

MGIPRRND—17 CAT/86—T. S. App.—30-10-1986—150 Pads.

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

CAUSE TITLE

CA/527/93

NAME OF THE PARTIES

T B Sarvagya & Ors.

VERSUS

UoA & Ors.

SR NO.

DESCRIPTION OF DOCUMENTS

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Judg. dt. 13/8/99

Filed by Mr. M. S. Trivedi
Learned Advocate for Petitioners
with second set of two copies
copies not derived to
other side

Court-II

Dt. 15/9/93 By Registrar C.A.T. (I)
15/9/93 A'bad Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH
AT AHMEDABAD

O.A.No. 597/93

Shri A.B.Devaliya & others APPLICANTS

VS

The Union of India and others RESPONDENTS

SUB : Application under section 5(1)(b) of
Central Administrative Procedure Rules,
1987

That the applicants above named have filed one
application before this Hon. Tribunal u/s 19 of CAT Act,
challenging absorption of Telegraph Signallers in Ticket
Checking Branch.

That the applicants further submits that the
action on the part of the respondents authority will
adversely affect promotional avenues of the present
applicants and thus there is a common cause of all the
applicants and therefore they have filed one common
application.

Looking to the facts and circumstances of the
case and in view of the facts mentioned herein above,
the applicants therefore pray that necessary permission
may please be granted for filing the joint application
for the common cause.


AHMEDABAD

DATED:

Drafted by

1. Devaliya
2. Devaliya

3. Akarip STC RTT
4. @m TC RTT
5. Akarip STC RTT
6. Gaj STC RTT
7. M. M. Thakur STC RTT
8. Savaiya STC RTT
9. Khandan STC RTT
10. Chander (TC RTT)
11. ~~Arjun~~ TC RTT
12. A. R. Bagadai TC RTT
13. Byendra Singh Kataria
(TC RTT)
14. Kirti TC RTT
15. Sanjay TC RTT


15/9/93

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH
AT AHMEDABAD

O.A.No. 527/93

Shri A.B.Devaliya and others Applicants

Vs

The Union of India and others Respondents

I N D E X

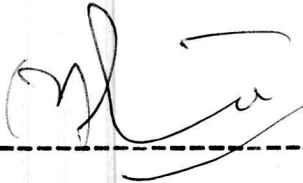
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AHMEDABAD

DATED : -9-93



ADVOCATE FOR THE
APPLICANTS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH
AT AHMEDABAD.

O.A. No. 527 / 93

1. Shri. A.B. Devaliya
2. Shri. J.P. Jadeja
3. Shri. A.D. Karia
4. Shri. K.D. Oza
5. Shri. R.K. Jhala
- ✓ 6. Shri. I.B. Sarvaya ✓
- ✓ 7. Shri. M.M. Thakkar ✓
- ✓ 8. Shri. J.K. Bhatt ✓
9. Shri. B.C. Makwana
10. Shri. G.H. Teraya
11. Shri. D.R. Yadav
12. Shri. A.R. Bagadai
13. Shri. B.S. Katariya
14. Shri. K.V. Jobanputra
15. Shri. S.J. Khushlani

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ML
Advocate
17/9/93

All Hindu, Adults, Sl.No.1 to 5 & Sl No.9 to 15
working as Ticket Collectors and Sl. No.6,7 & 8 are
working as Senior Ticket Collectors, Rajkot Junction.

... APPLICANTS.

Vs.

1. The Union of India,
Owning Western Railway,
Through: The General Manager,
Western Railway, Churchgate,
BOMBAY - 20.
2. The Divisional Railway Manager,
Western Railway, Kothi Compound,
RAJKOT

... RESPONDENTS.

SUB: Application U/s.19 of the Administrative
Tribunals Act, 1985.

1. Particulars of the applicants:

1. Shri. A.B. Devaliya
2. Shri. J.P. Jadeja

3. Shri. A.D. Karia
4. Shri. K.D. Oza
5. Shri. R.K. Jhala
6. Shri. I.B. Survaya
7. Shri. M.M. Thakkar
8. Shri. J.K. Bhatt
9. Shri. B.C. Makwana
10. Shri. G.H. Teraya
11. Shri. D.R. Yadav
12. Shri. A.R. Bagadai
13. Shri. B.S. Kateriya
14. Shri. K.V. Jobanputra
15. Shri. S.J. Khushlani

All Hindu, Adults, Sl No.1 to 5 & Sl. No.9 to 15
working as Ticket Collectors and Sl No.6 to 8 are working
as Senior Ticket Collectors, Rajkot Junction

2. Particulars of the Respondents:-

- (1) The Union of India,
Owning Western Railway,
Through: The General Manager,
Western Railway, Churchgate,
BOMBAY - 20.
- (2) The Divisional Railway Manager,
Western Railway, Kothi Compound,
RAJKOT.

3. Particulars of the order against which the application
is made:

Order No. ET/839/5 of dated 5-8-93 issued by DRM(E),
Rajkot.

4. Jurisdiction of the Tribunal:

The applicants declares that the subject matter of the order against which they want redressal is within the jurisdiction of this Hon. Tribunal.

5. Facts of the Case:

(1) That the applicants No.1 to 5 and 9 to 15 are working as Ticket Collectors and Sl No.6,7 & 8 are working as Senior Ticket Collectors at Rajkot Junction and their next promotion is expected in very near future as TTE (Travelling Ticket Examiner) because there are many vacancies of TTE lying vacant in the Rajkot Division.

(2) In the Rajkot Division, Telegraph Signallers are declared surplus and as per the GM(E) CCG letter No. E(R&T) 1136/27 Vol.V of dated 23.5.89 regarding manpower planning and absorption/utilisation of surplus staff at Page No.4 para 5, the instructions are issued that whenever any staff in any category is surplus, the junior most employee should be rendered surplus. But, in the Telegraphic Signaller category, Juniors are retained and Seniors are declared surplus and are absorbed as TTE in the Checking Branch vide Order No.ET/839/5 of dated 5.8.93 which has badly affected the future chances of promotion of the Ticket Collectors and Senior Ticket Collectors as TTE.

(3) DRM(E) vide letter No.ET/839/5 Vol.II of dated 22-6-92 had issued a letter to the surplus Telegraph Signallers for giving their option in any of the following categories:

Clerks, Senior Clerks, Luggage Clerk, Booking Clerk, Goods Clerk, Senior Luggage Clerk, Senior Booking Clerk, Senior Goods Clerk.

(4) The surplus staff had given their option to the Station Superintendent, Rajkot and it was forwarded by him to DRM(E), Rajkot vide letter No.E-1 dated 8-7-92. 10 surplus Telegraph Signallers had given their option for the post of Senior Clerk and Goods Guard.

(5) The surplus Telegraph Signallers had already given their option through ~~XXX~~ SS, Rajkot on dated 8-7-92 for their absorbtion on the post of Sr. Clerk and Goods Guard. Even then, vide Telephone Message No. ET/849/5 of dated 17-8-93, a revised option was demanded from the surplus staff except for the category of Clerks.

(6) The venue of promotion to Telegraph Signallers is to the post of Wireless Operators, Asst. Station Master and Guard. There is acute shortage of ASM's and the staff is working ~~xxx~~ overtime. In the month of March-April 1993 overtime of Rs.2,78,607/- and in the month of May-June 1993 overtime of Rs.4,15,390/- is paid to the staff. The eight surplus staff is absorbed in the Checking Branch against the Minutes of the Meeting held on 3-6-93 and without asking their option for the Cheeking Branch.

(7) The railway administration in a arbitrary way has passed the order for posting of the surplus Telegraph Signallers in the Branch of TTE without consulting the recognized unions and the affected employees.

: 5 :

(8) The seniority of the staff working in the Checking Branch and their chances of promotion are very badly affected by the said illegal ~~and~~ order and arbitrary action of the Railway Administration for absorbing the surplus Telegraph Signallers in the Checking Branch instead of absorbing them as ASM to avoid the overtime and smooth working of the Railway Administration.

(9) The Channel of promotion of Telegraph Signallers is to ASM and while there is acute shortage in the Branch of ASM's and heavy overtime of lakhs of rupees is going on in the category of ASM's, none of the surplus Telegraph Signallers are being absorbed in the category of ASM's.

(10) This Hon. Tribunal has decided in O.A. No.26/92 on dated 10-3-93 that the surplus staff cannot be absorbed on the higher post and they should be absorbed only on the equivalent post and ~~they should be absorbed~~ in O.A. No.321/92 filed by the surplus Telegraph Signallers of Baroda Division with the prayer that the Railway Administration may be directed to utilise them in the category of Guard is rejected by the Hon. Tribunal.

(11) The case of the present applicants is also on the same line of O.A. No.26/92 ^{and O.A. 491/93} which is decided by this Hon. Tribunal on dated 10-3-93.

(12) The surplus staff of Telegraph Signallers had given their option which was forwarded by the Station Superintendant Rajkot vide letter No.E/1 of 7-8-92 to DRM(E), Rajkot. In the said letter Shri. H.I. Dholakia, Shri. S.N. Jhani, Shri. H.H. Sheikh had given their option for absorption as Senior Clerk in establishment branch and Shri. D.J.

6.14 It is submitted that the employees were surplus and therefore the options vide letter dt. 22.6. It is pertinent to note that the said options were given as per rules and in their own channel of promotion and relevant category. That once the employees have opted for the post of Asstt. Station Master and Goods, Guard etc., there is no justification available to the respondents to inform the employees concerned to review their options. It is important to note that so far Asstt. Station Master is concerned, there are about 38-40 posts are available vacant and Goods Guard are concerned, more than 35 posts are available vacant. That the important aspect is, the administration is paying overtime to Asstt. Station Masters, which runs to lacks of ruppes. The contention of respondents in their reply about reduction in the overtime is far from truth. I say that from January '93 the overtime paid to the Asstt. Station Masters are as under :

January '93	2,32,802
Feb, '93	2,28,556
March '93	1,66,101
April '93	2,78,607
May '93	4,15,390
June '93	1,39,303
July '93	1,92,986
August '93	1,77,794
Sept. '93	1,24,736

The said overtime is continued in subsequent month also. While for the post of TTE/TC, there is no question of any overtime. In these circumstances, it is a clear case of colourable exercise of power which is unconstitutional being arbitrary, is violative of Art. 14 & 16 of the Constitution of India.

6.15. It is further submitted that even as per the circular issued by the Railway Board, the surplus employees cannot be absorbed in the cadre of TTE/TC. That any instruction issued by the Railway Board which is contrary to the provisions of rules are nullity and cannot be relied upon by the respondents. It is important to note that if in any circumstances any employee gives option for absorption in the other cadre, he will go in the bottom seniority and the question of merger of seniority is far from truth. That the issue is decided by the Hon'ble Supreme Court and even the Railway Board has also held that such an employee can only be absorbed on their willingness to accept the bottom seniority of direct recruitment cadre. Once the options were given by the employees in their own channel of promotion, there is no justification available to the respondents to direct them to review their options. I called upon the respondents to produce the original file before the Hon'ble Tribunal to point out what are the justification and reason for reviewing the options, which is contrary to the provisions of Railway Establishment Manual. That if the respondents intend to absorb surplus employees, due to which seniority and promotional avenue of other employees are likely to be affected adversely, it is the duty of the respondents to give them an opportunity of being heard and only thereafter such an administrative action which adversely affect the right of

no. of employees can be implemented. Here, the respondent authorities are fully aware that they are doing the unjust and illegal work of absorption of surplus staff working as Telegraph Signallers to the post of TTE/TC cadre which adversely affect the seniority and promotional avenue of applicant employees and therefore ignoring the representation made on behalf of the employees who are affected, issued the order of absorption in favour of surplus employees. He said action is contrary to law and in flagrant violation of principle of natural justice and fair play and the same is required to be quashed and set aside.

6.1) Be pleased to declare the impugned action on the part of the respondents directing the surplus Telegraph Signallers to review their options from the post of Asstt. Station Master and Wireless Operator etc. for the post of TT/TC, as arbitrary, illegal, unconstitutional without justification and non application of mind, violative of Art. 14 & 16 of the Constitution of India and be pleased to declare there is no justification available to the respondents to allow the employees concerned to change their option and the subsequent order of respondents accepting the said options and absorbing the Telegraph Signallers to the post of TTB/TC vide letter dt. 5.8.93. as contrary to the provisions of Railway Establishment Manual and arbitrary and be pleased to quash and set aside it and direct the respondents to absorb the surplus staff as per their earlier options to the post of Asstt. Station Master and Goods Guard.

6.2) Be pleased to declare that the surplus Telegraph signallers seniority cannot be merged with the existing staff working as TTB which is a promotional post and direct recruitment post i.e. T.C. and further declare that the surplus Telegraph signallers on their options have to accept the bottom seniority of the direct recruitment cadre i.e. Ticket Collector Post.

6.3) Be pleased to declare the impugned action of the respondents absorbing the surplus Telegraph Signallers to the post of TTB and TC, adversely affecting the seniority and right of consideration for promotion to the applicants without giving them an opportunity of being heard, as violative of principle of natural justice and therefore be pleased to quash and set a side it.

Parmar, Shri. A.K. Dasadia had given their option for absorbtion as Goods Guard. Even then, the above referred 5 surplus Telegraph Signallers are being absorbed as TTE by the DRM(E), Rajkot vide letter No.ET/839/3/Vol.II of dated 5-8-93 with some alterior motive. First, option once given by an employee, they have no right to change their option or to change the category of their own choice.

(13) The Hon. Tribunal in the similar matter of O.A. No. 350/93 Interim Relief is granted against the absorbtion of the surplus Telegraph Signallers and the present matter is also with same point of law and facts.

6. In view of the facts mentioned in Para 1 to 5(13), the Applicants most humbly and respectfully pray that it may please be declared that the order No. ET/839/5 of dated 5-8-93 absorbing the surplus Telegraph Signallers in the Checking Branch is illegal, null and void. Hence, the respondents may be restrained from implementing the Order No. ET/839/5 of dated 5-8-93 by posting the surplus Telegraph Signallers in the Checking Branch.

7. Interim Orders:

It is respectfully prayed that the following interim injunction may please be granted:-

Protonchovet
West Center
27126,
Dana

(1) The Respondents and their servants may be restrained from implementing the order No. ET/839/5 of dated 5-8-93 posting the surplus Telegraph Signallers in the Checking Branch of Rajkot Division till the final disposal of this petition.

(2) The present applicants has a strong prima facie case against the opponents in their favour, the balance of convenience is also in their favour. The applicants would be put to great hardship and irreparable loss if the injunction as prayed for is not granted in the case. The present petition would become infructuous and meaningless hence, in the interest of justice, the Respondents may be restrained from posting the surplus Telegrap Signallers in Checking Branch of Rajkot Division.

8. The applicants vide letter dtd. 9.9.93 by ~~REAR~~ Regd. A.D. have represented their grievances to both the Opponents and the Chairman, Railway Board for granting them justice regarding their chances of future promotion. The surplus Telegraph Signallers are likely to be posted within a week's time. Hence, the applicants are compelled to file the present petition for obtaining the Interim Relief.

9. Matter not pending with any other court:

The applicants further declares that the matter regarding which the application has been made is not pending before any other court of law or any other authority or any other branch of the Tribunal.

10. Particulars of Bank Draft:

A Postal Order No. 339622 for Rs.50/- in respect of application fees drawn on the State Bank of India is enclosed.

11. Details of the Index:

An index in duplicate containing the details of the documents to be relied upon is enclosed as A-1.

12. List of enclosures:

A list of enclosures is annexed as A-2.

AHMEDABAD,

Dated:

15 9 93

1. Nevaliya ~~STC, RJT~~
2. Purnima ~~STC, RJT~~
3. Adhikari ~~STC, RJT~~
4. P. S. ~~TC, RJT~~
5. Abdulla ~~STC, RJT~~
6. Farida ~~STC, RJT~~
7. M. M. Hakeem ~~STC, RJT~~
8. J. Z. H. H. ~~STC, RJT~~
9. Sundhar ~~STC, RJT~~
10. G. H. H. H. ~~(T.C. RJT)~~
11. M. A. D. A. ~~(TC, RJT)~~
12. A. R. B. B. B. B. ~~(T.C. RJT)~~
13. B. J. B. B. B. B. ~~(TC, RJT)~~
14. K. H. H. H. ~~TC, RJT~~
15. S. J. B. B. B. ~~TC, RJT~~

We, the undersigned Shri. A.B. Devaliya, Shri. J.P. Jadeja
Shri. A.D. Karia, Shri. K.D. Oza, Shri. R.K. Jhala,
Shri. I.B. Sarvaya, Shri. M.M. Thakkar, Shri. J.K. Bhatt,
Shri. B.C. Makwana, Shri. G.H. Teraya, Shri. D.R. Yadav,
Shri. A.R. Bagadai, Shri. B.S. Katariya, Shri. K.V.
Jobanputra, & Shri. S.J. Khushlani, all Hindu, Adults
working as Ticket Collectors and Senior Ticket Collectors
at Rajkot Junction do hereby verify that the contents from
Para 1 to 12 are true to our personal knowledge and that
we have not suppressed any material facts.

AHMEDABAD,

Dated:

1. Devaliya STC, RTT
2. Gyand STC, RTT
3. M. K. Karia STC, RTT
4. Teraya TC, RTT
5. Dhale STC, RTT
6. Sarvaya STC, RTT
7. M. M. Thakkar STC, RTT
8. J. K. Bhatt STC, RTT
9. B. C. Makwana STC, RTT
10. G. H. Teraya (TC, RTT)
11. A. R. Bagadai (TC, RTT)
12. A. R. Bagadai (TC, RTT)
13. B. S. Katariya (TC, RTT)
14. K. V. Jobanputra TC, RTT
15. S. J. Khushlani TC, RTT

DRAFTED BY:

M. S. TRIVEDI
ADVOCATE

10 10

From: Ticket Collectors,
Rajkot Divison;
Dated : 09-09-93

To,
Shri N.C.Bindlish
Divisonal Railway Manager,
Western Railway,
RAJKOT

Respected Sir,

Sub: Promotion, Reversion, Trowfers
(i) Ticket checking Branch
(ii) Absorption of surplus staff Telegraph Branch

Ref:- DRM (E) RJT Memorandum.
(i) No ET 839/5 of 5.8.93.
(ii) Ticket Checking staff Joint representation
dtd. 18.8.93 and 25.8.93

We the undersigned Ticket collectors of Rajkot Division scale Rs. 950-1500 (R.P.) beg to represent jointly our case against on-mass association of staff of Telegraph Branch as under for immediate necessary action.

As per order issued under DRM (E) Rjt memorandum dated 5.8.93 quoted above, seven telegraph signallors Gr. II in scale Rs. 1200- 2040 and one Telegraph Signallor Rs. 975-1540 are ordered to be absorbed as TTE scale Rs. 1200-2040 and 950-1500 respectively. Against this , TTEs scale Rs.1200-2040, who are due for promotion to scale Rs. 1400-2300 have represented vide their joint representation quoted above to the Railway Administration. They have also filed a case in CAT Ahmedabad vide case No. DA/491/93 on 7.09.93 in which CAT ADI has passed interim orders as under on 7.09.93.

" The respondents, if they want to post the persons named in Ann. A 5 as TTE, they may do so but on condition that their appointment may not effect the seniority or promotion chances of the present applicants."

In fact, we are directly affected in this case. We are due for promotion from TC to TTE, as per seniority and if the disputed Telegraph Signallors are directly taken as TTE, it will effect our promotional chances. Therefore, as per above judgement, we request your honor to fill up all existing vacancies of TTEs, scale Rs. 1200-2040 from the cadre of TC scale Rs. 950-1500 and absorption of Telegraph Signallors, if at all forced in our branch. Then, it can be done only without detrimental to our promotional prospects. Else it will cause contempt of court order. We again request you to step absorption of all these telegraph staff in our branch considering, the various aspects pointed out in joint representations quoted above in the interest of natural justice with a further request to investigate, as to how many vacancies

.....contd. page (2)

(2)

in other categories were filled in after 22.06.92 to date as per option earlier called for vide DRM (E) Rjt.'s letter No. ET 839/5 Vol.II of 22.06.92 (Category of TC/TTE was not shown in this option list) i.e. clerk, sr. clerk, luggage clerk, booking clerk, goods clerk, sr. luggage clerk, sr. booking clerk and sr. goods clerks and also as to why this option were not honored till date. Keeping these staff idle upto now and how they were given second chance of option after one year against laid down policy that option once exercised is final. They were

/are also not considered as any Wireless operators in their own channel of promotion and considered fit as TTE overnight without any suitability or screening test.

It is requested that this issue affects our further prospects and hence, in no circumstances our promotions as TTE against vacancies available for us should go to other department, thereby giving step mother by treatment to one particular category.

As early action and reply is requested.

Yours faithfully

Copy to :

1. Shri CPO CCG, he is requested to appreciate our difficulties and problems and get the issue finalised without delay.

2. GEN. Secy- WREU/WRMS

3. Div Secy. WREU/WRMS

4. The Secy. Rly. Board, New Delhi.
for necessary action please.

1... *Devaliya* , STC RJT
2... *Chauhan* TC RJT
3... *Chaudhary J. Singh*
4... *Bajwade Singh Kolar* (TC-R)
5... *A. R. Basudai* (TC-RJT)
6. K. N. JOBANPURA TC. RJT
7. *Singh* T.C. RJT
8. *Bhambhani* Sr. TC. RJT
9. *Karia* Sr. T.C. RJT

True copy

M. G. J. J.

Advocate

WESTERN P. LAY

No. RT/839/5 Vol. II

Divisional Office
Rajkot.
Dt/- 22-6-1982.

To :	M.M. Patel	HS Gr. II	MSH	through SS MSH
S/Sr.	H.P. Shah	-do-		
	U.A. Menon	-do-		
	U.B. Chavda	-do-		
	V.V. Dave	-do-		
	K.D. Shukla	HS Gr. II	SUR	Through SS SUR
	V.O. Joshi	-do-	RT	Through SS RT
	R.V. Solanki	-do-		
	B.J. Holakia	-do-		
	R.d. Dave	-do-		
	N.d. Sheikh	-do-		
	V.J. Parmar	-do-		
	P.C. Dave	-do-		
	A.K. Dargadia	-do-		
	R.H. Ghosani	-do-		
	H.N. Jani	-do-		
	H.D. Jadeja	HS Gr. II	P	Through SS HXP
	R.D. Thakar	-do-		

Sub : Absorption of surplus staff of Telegraph Branch
- Traffic Deptt. - Rajkot Division.

The Cadre of Telegraph Branch on RT Division is under review and there is a proposal to surrender the number of posts very shortly.

As a result of above, some of the Telegraph Signallors working in scale Rs. 975-1540 (RP) & HS Gr. I scale Rs. 1200-2040 (RP) are likely to be rendered surplus. In order to protect their interest and avoid reverting to the lower grades, has been decided to call options from the willing staff on the enclosed proforma. There are vacancies in various categories on line 1.

- (1) Clerk - scale Rs. 950-1500 (RP)
- (2) Sr. Clerk - " Rs. 1200-2040 (RP)
- (3) Luggage Clerk - scale Rs. 950-1500 (RP)
- (4) Booking Clerk - " Rs. 950-1500 (RP)
- (5) Goods Clerk - " Rs. 950-1500 (RP)
- (6) Sr. Luggage Clerk - scale Rs. 1200-2040 (RP)
- (7) Sr. Booking Clerk - " -do-
- (8) Sr. Goods Clerk - " -do-

Staff giving options for change of their category will have no guarantee for posting at a particular station or in a particular category. Please therefore, submit your option for the change of category within three days on receipt of this through DTT/RT.

Encl : As above.

for DRM (E) RT.

Copy to : SSS - MSH SUR RT EXP

DTT RT RTA - RT RT
ST/RT
ST/RT RT RT RT
RT RT RT RT RT

TRUE COPY

AZ Sur
Ad
W.D. Sur
Advocate

A-3

WESTERN RAILWAY

Divisional Office,
Rajkot.

Date:- 30-6-1992.

No. ET-839/5 Vol.II

To,

S/Sr M.M. Patel HS Gr. II MSH Through SS/MSH
 H.P. Sheikh -do-
 U.A. Menon -do-
 U.B. Chavda -do-
 V.V. Dave, -do-

K.D. Shukla HS Gr. II SUNR Through SS/SUNR
 V.O. Joshi -do- RJT Through SS/RJT
 R.V. Solanki -do-
 H.J. Dholakia -do-
 R.H. Dave -do-
 N.H. Sheikh -do-
 V.J. Parmar -do-
 P.C. Dave -do-
 A.K. Dasadia -do-
 R.R. Gidwani -do-

S.N. Jani -do- HS Gr II HKT Through SS/Hapa
 D.D. Jadeja -do-
 R.B. Thakar

Sub:- Absorption of surplus staff of Telegraph
 Branch - Traffic Deptt- Rajkot Division.

Ref:- This office letter No. ET/839/5 Vol.II
 dated 22-6-92.

--000--

In continuation of this office letter quoted above
 It has been decided to allow the staff to opt for the following
 additional categories for absorption as bearing rendered surplus.

(i) ASM Scale Rs 1200-2040(RP.86)

(ii) Goods Guard Scale Rs 1200-2040(RP.86)

The staff will be absorbed in alternative categories
 as per this options as and when they are rendered surplus as per
 seniority. Subject to planning meeting necessary arrangements
 Medical Exam:

for DRM(E) Rajkot.

Copy to:-

SSs - MSH, SUNR, RJT, Hapa,
 DTT- RJT ITT - MSH, RJT
 STR- ALL
 Sr. DGM/Rajkot DSO/ Rajkot
 HS Gr.I Hapa, S UNR,
 Divil. Secy. WPEU/WPMS - Rajkot.

--000--

TRUE COPY

AL Sw
 [Signature]
 Advocate

A-4

13

at 30.7.19
G. 30.7.19

8.7.1992

W. R.

SS. RJT

DRM. (E). RJT

Absorption of surplus staff of Telegraph

Branch: Tl. cl. RJT division

Office letter NO: E718391s w/ II DT. 22.6.92
E. 30.6.92In reference to the above the options
expressed by telegraph office staff is forwarded
for further disposal.

1	Shri V. D. Toshi	Options expressed as So clerk Estd. Pr.
2	" B. V. Solanki	Not submitted till date
3	" H. J. Dholakia	So clerk Estd. Pr.
4	" R. H. Dave	— do —
5	" M. H. Sheikh	— do —
6	" V. J. Parmar	Goods Guard
7	" P. C. Dave	— do —
8	" Abdul Kadir D.	Goods Guard
9	" S. N. Joshi	So clerk Estd. Pr.
10	" R. R. Gulavani	— do —

Pl. acknowledge.

Encl. 1. 9 as above

Station Supdt.
W. Rly.-RajkotBy / Date / Inc / Leave / Seniority / P. / Qtr / Cadre Clerks.
G. I. DM. J. M. R. T. J. M. R. T. (1) (1)

Divisional Secretary, W. Rly. / W. R. T.

TRUE COPY

A. C. J. S.
A. C. J. S.A. C. J. S.
A. C. J. S.

A-5

14

Co. ST/329/II vol. II.

Eastern Railway

Divisional office,
Rajkot.

Dated 5-3-1955.

MEMORANDUM

Subject: Absorption of Telegraph Staff - Rajkot Division.

Consequent upon closure of Telegraph Offices at K.P., R.J.T.
K.P., SUR and M., the following staff of Telegraph deptt. having
been rendered surplus are absorbed as shown against each of
them hereunder as per action exercised by them.

Sl. No.	Name & initials	Present		Absorbed as	
		Designation	Scale (K.P.)	Design.	Scale.
1	S H Jadh	HS Gr. II	1200-20'0	TTE	1200-20'0
2	K J Dholakia	-do-	"	TTE	"
3	K D Shukla	-do- BUN	"	TTE	"
4	V J Patmar	-do- IST	"	TTE	"
5	A K Dasadia	-do- IST	"	TTE	"
6	H K Shalchi	-do- IST	"	TTE	"
7	Ramesh Patel	ST 1st. Sign. K.P.	870-10'0	TC	950-10'0
8	D D Jadeja	HS Gr. II K.P.	1200-20'0	TTE	1200-20'0

By the direct training in Ticket Checking by which and
should be roll over Principal UDTE in order to join
the course by my command from 26.7.55 as a Principal UDTE.
If required, the training period be extended to the requirement
if they are not included in this course, they will remain idle
till next course is commenced which will be 1st Aug 56 and
the completed by the Railway.

A. S. [Signature]

On completion of training as above, at UD, they will be posted
in respective category as shown above.

[Signature]

For DM(S)-Rajkot.

Copy to:-
SS. ST. 5000. K.P.
CTSL ST to report on phone.
P.T.E.D. M. ST.
S/ST. ss clock. Leave clock.
P. files. Party concerned.
EC H 36/11
G115/5/3

TRUE COPY

A. S. [Signature]

[Signature]

g under late to produce
type copy
only
16/7/55

A-6

From: Ticket Checking Staff,
Rajkot Division,

dated 18th August 1993.

To

Shri P.V.Vaitheeswaran,
General Manager,
Western Railway,
Churchgate, Bombay.

(Through DRM-Rajkot)

Respected Sir,

Sub: Absorption of Telegraph Staff -
Rajkot Division -

Ref: DRM(E) RJT's Memorandum No.ET/839/5
of 5.8.1993.

...

We the undersigned Ticket Checking Staff of Rajkot Division beg to represent jointly our case objecting against enmass absorpition of staff of telegraph branch all in only Ticket checking Branch into following details for favour of kind consideration and immediate necessary action.

1. A copy of DRM(E) RJT's Memorandum quoted above is enclosed herewith from which it will be seen that 7 Head Sigr. Gr.II in scale Rs:1200-2040 and 1 Tele-Sigr. Scale Rs:975-1540(RF) are being absorbed as TTE scale Rs:1200-2040 and Rs:950-1500 respectively. As per extant instructions on the subject of identification of surplus area, & an advance planning is called for and if this was done these employees could have been accommodated gradually in various departments by now. The reasons for not doing so need to be n investigated.

2. The Telegraph Branch on the Division functions under the Administrative control of DRM and under STr Ajmer for technical purpose. It is not known whether STr Ajmer was consulted for the purpose of working as well as to examine whether these employees can be accommodated in the parent branch including in his office.

3. The Telegraph Signallers have parallel working with wireless Branch and therefore it was necessary to absorb them ~~in~~ in Wireless Branch in preference to other categories with due training if called for.

4. The Telegraph Signallers have also avenue of promotions for ASMs and Goods and therefore they could have been considered for these categories. There are also other categories in TT&C deptt. like TNC, ACC etc. and they could have been considered for such categories.

: 2 :

5. There are other 7 (seven) departments where also vacancies exist and these staff could have been considered for absorptions with due training if necessary in these departments. In case of Office Clerks, there are three Groups on pro-rata basis where no training is necessary as also sufficient vacancies exist.

6. Recently, Divisional Store Department is opened where certain clerical posts are to be filled in from open line by redeployment from the existing cadre. This also could have been done.

7. As per extant instructions, both the recognised Trade Unions ~~will~~ are required to be consulted and the issues like vacancies to be offered seniority of surplus staff in new ~~units~~ units, offer of option with terms and conditions to be given to such employees should have been sorted out before procedure was followed or otherwise.

8. Apart from what has been stated above and without prejudice to our fellow workers, we would like to represent our case in that due to absorption of all these 8 employees of Telegraph Branch into the cadre of Ticket Checking only, our promotional prospects will be badly affected for which either these employees may be accommodated in other suitable categories of other department of pro-rata basis or protection in seniority should be given to us. In this connection, attention is invited to Rly. Board's letter No.E(NG) II-84/RE-1/10 dated 21.4.89 circulated under GM(E) CCG's letter No.E(RCT)/1130/27/Vol.V dt. 23.5.89 para 3 (iii) thereof according to which seniority of such staff is required to be kept separate against the "special supernumerary" posts so that prospects of such absorbed employees are kept separate and identical to what they would have achieved in the old unit and it does not jeo-paradise the promotional prospects of the staff in the units in which they are being inducted.

Uptill now, there are clear orders that even a decategorised employee should not be taken in ticket checking branch without personal approval of GM looking to the nature and job and limited number of posts that are available in this cadre.

9. As per rules, junior employees are required to be made surplus. However, it is learnt that senior employees are made surplus and juniors are continued in Telegraph Branch. This is quite incorrect.

10. The training of TC has commenced at UD on 26.7.93 whereas these employees are sent on 5.8.93 without proper medical examination.

11. In enmass absorpotion of Telegraph Signallers directly in intermediate grade has snatched away promotional prospects of 7 (seva) TCs to that of TTE. It needs to be investigated also why no action was taken for two years to fill up these vacancies of TTE, resulting in great loss to existing seniormost TCs.

In conclusion, we earnestly request your honour to kindly examine this matter on priority basis and issue necessary instructions to DRM(E) RJT to stop enmass absorpition ~~xx~~ of Telegraph Staff into Ticket checking branch as by doing so it will ruin our future prospects.

Hope our requests will be dealt with on its merits and due justice awarded for which we shall ever remain grateful to the railway administration.

Thanking you in anticipation,

Yours faithfully,

Encl: As above.

Copy to CPO-CCG. He is requested to appreciate our difficulties and problems and get the issue finalised without delay as staff involved are badly frustrated waiting for due justice.

Copy to: General Secretary, WRMS/WREU
" Divl. Secretary, WRMS/WREU

Copy to: The Secretary, Railway Board,
New Delhi for necessary action.

(1) Devaliyu
(Ashok Devaliyu)
SS T.C. RJT

(2) M. T. Vankar
TTE RJT

(3) P. B. Singh
(P. B. Singh)
(S. P. Singh)
TTE RJT

TRUE COPY

Advocate

3	D. N. VYAS	TTE RST	D.N. Vyas
4	D. R. Mehra	TTE RST	D. R. Mehra
5	A. R. Parmar	"	MRP
6	S. V. Darda	TTE RST	Darda
7	P. H. VIRADIA	TTE RST	P. H. Viradia
8	O. K. Karmam	TTE/RST	O. Karmam
9	V. M. Nagar	Home/RS	V
10	H. H. Solanki	HLTTE/RST	H
11	D. G. Bhatnagar	TTE RST	D. G.
12	R. H. Gje	TTE RST	R. H. Gje
13	A. V. Chauhan	HL TTE	A. V. Chauhan
14	R. C. T. J. J.	TTE RST	R. C. T. J. J.
15	B. B. M. M.	HL TTE	B. B. M. M.
16	A. J. Solomon	TTE RST	A. J. Solomon
17	A. R. Parikh	" "	A. R. Parikh
18	H. K. SHUKLA	TTE RST	H. K. SHUKLA
19	R. N. Pareek	HL TTE RST	R. N. Pareek
20	R. C. Raja	TTE	R. C. Raja
21	B. S. Sharma	HL TTE	B. S. Sharma
22	B. M. Rana	TTE-RST	B. M. Rana
23	A. J. Dhanraj	TTE-RST	A. J. Dhanraj
24	J. S. Sharma	HL-TTE	J. S. Sharma
25	K. D. Oza	TC RST	K. D. Oza
26	R. C. J. J.	TC RST	R. C. J. J.
27	A. R. Bhatnagar	TC RST	A. R. Bhatnagar
28	M. M. Thakur	SL TC	M. M. Thakur
29	K. N. JOBANPUTRA	T. C. RST	K. N. JOBANPUTRA
30	S. J. Khushalani	" "	S. J. Khushalani
31	A. B. Devalia	SL TC	A. B. Devalia
32	B. S. Kataria	TC-RST	B. S. Kataria

19

31.	B. A. Wadia	TTE-RD	A/Wadia
32.	M.K. Chaudhary	TTE RD	M.K. Chaudhary
33.	V.B. GHADGE	TTE-RD	B.K. Ghadge
34.	J.L. MEENA	HD TTE-RD	Jyotsna
35.	A.T. Zale	T.T.E. RD	A.T. Zale
36.	S.S. Vengal	H. TTE-RD	Highela
37.	C.B. JOSHI	TTE RD	B. Joshi
38.	S.S. Bhut	TTE-RD	B. Bhut
39.	Uday Singh	HTTE-RD	Uday Singh
40.	Abdul	HTTE-RD	Abdul
41.	S.D. Reddy	TTE-RD	S.D. Reddy
42.	M.T. Vengal	TTE-RD	M.T. Vengal
43.	Mohamud	TTE RD	Mohamud
44.	S.M. Shah	Gr. TC. JAM.	S.M. Shah
45.	K. A. Jadhav	TTE RD	K. A. Jadhav
46.	T. G. Bhatti	HD TTE-RD	T. G. Bhatti
47.	M.P. Karmar	TTE-RD	M.P. Karmar
48.	V.T. Shukla	HD TTE-RD	V.T. Shukla
49.	V.S. Varmar	TTE-RD	V.S. Varmar
50.	S.T. Tharajia	TTE-RD	S.T. Tharajia
51.	N.M. Joshi	TTE-RD	N.M. Joshi
52.	B.K. Acharya	HD TTE-RD	B.K. Acharya
53.	R.G. Joshi	TTE-RD	R.G. Joshi
54.	J. D. Patkar	TTE-RD	J. D. Patkar
55.	D.R. YADAV	TC RD	D.R. YADAV
56.	J.P. Tadey	Gr. TC RD	J.P. Tadey
57.	A.D. Karia	So. T.C. RD	A.D. Karia
58.	A.K. Panari	TTE-RD	A.K. Panari

Advocate

R. 51457

Date : 9-9-93

The Divisional Railway Manager,
Western Railway,
Kothi compound,
RAJKOT

Dear Sir,

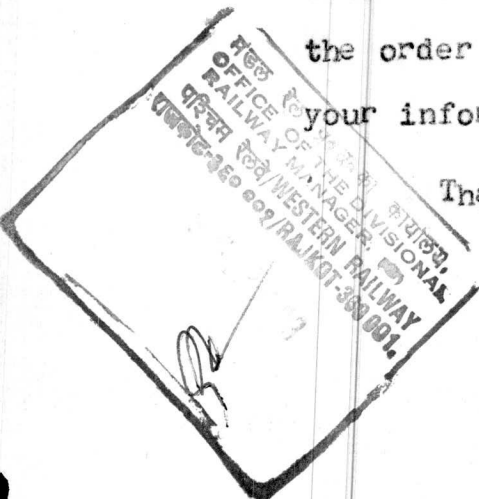
SUB: O.A.No. 491/93

Please note that my clients Shri B.M.Raval and others have filed C.A.No.491/93 in Central Administrative Tribunal Ahmedabad. The Hon.Tribunal has given the permission for the direct service. The notice of the Hon. CAT with all relevant papers and the order passed on dated 7-9-93 is sent herewith for your information please.

Thanking you,

Yours /faithfully,

M. K. PAUL
ADVOCATE



2/7/93

A-8

21

EXPRESS TELEGRAM

1. TO.
GENERAL MANAGER
WESTERN RAILWAY
CHURCHGATE
DORSET.
2. CHIEF COMMERCIAL MANAGER.
WESTERN RAILWAY
CHURCHGATE
DORSET.
3. DIVISIONAL RAILWAY MANAGER
DORSET COMPOUND
DORSET.

URGENT DISPOSITION OF 8 TELEGRAPH SIGNALERS IN
TICKET CHECKING BRANCH. BEING EFFECTING FUTURE REDUC-
TION OF CHECKING STAFF. PLEASE ABSORB SURPLUS STAFF
FIRST IN THE PARENT BRANCH TRAFFIC THEN EQUAL DISTRIBU-
TION IN ALL BRANCHES REQUESTED.

TICKET CHECKING BRANCH
DORSET.

TRUE

Advocate

Shri, D.S. Bawaja,
Chief Personal Officer,
Western Railway Churchgate,
MUMBAI

Shri V.P. Shambrani,
CIO (IR),
Western Railway Churchgate,
MUMBAI

Shri Agarwal Sahab,
CIO (ADM) Churchgate,
BOMBAY

Shri H.C. Bindlish,
Divisional Railway Manager,
Western Railway,
RAJKOT

As decided in meeting on 03/06/93 with ADM, DFO and Union representatives for absorption of surplus staff of Telegraph Signallers in direct recruitment quota on basis on their options accordingly agreement was signed by administration and union. The administration has violated agreement and absorbed them in Ticket Checking Branch. Which is meant purely ranker quota filled in through selection or suitability test etc. Kindly Interventied the issue and instruct DIO Rajkot to absorb them in direct recruit quota only etc.

Ticket Checking Staff.
RAJKOT

TRUE COPY

AL [Signature]
[Signature]
Advocate

From : Ticket Checking Staff,
Rajkot Division
Dated : 26th Aug. 1993.

To
Shri R.V.Vaitheeswaran,
General Manager,
Western Railway
Church Gate,
BOMBAY (Thro - DRM Rajkot)

Respected Sir,

Sub : Absorption of Telegraph Staff
Rajkot Division.

Ref : Our Joint representation
dated 18-8-93.

In continuation of our joint representation quoted above, some more details about this subject have come to our notice where are narrated below for better application and redressal of our grievances.

DRM (E) Rajkot had addressed a *letter* to Telegraph staff likely to be surplus vide letter No. ET/839/5 Vol.II dated 22-6-92 wherein they were asked to submit option for categories eight in number (category of Ticket checking Branch was not indicated) against vacancies available as on 22-6-92 accordingly, all these employees had given their option for Senior Clerk, Goods Guards, etc. A copy of DRM (E) RJT letter No. ET/839/5 Vol.II dated 22-6-92 alongwith a copy of SS RJT's letter No. E/1 dated 8-7-92 are enclosed for perusal. It is now very clear that decision was taken on 22-6-92 to absorb all these Telegraph staff in suitable vacancies already shown as available at that time. It is not understood as to why this action remained ~~not~~ implemented and now overnight decision was taken to absorb all these eight employees in Ticket checking Branch only in haste and without proper option from these employees for the past of TTE now.

A meeting with Trade Union officials was held on 3-6-93 in which it was decided that Telegraph Signaler declared surplus can be absorbed in any alternative

- / 2 / -

suitable job against the direct recruit vacancies based on their option and suitability. The word "any" and "suitability" are important. The joint decision was indicative to offer option to these staff in all categories which in fact was not necessary as their option were already available earlier as mentioned above and it was to be followed by a suitability test. It is not understood what method was adopted to decide their suitability directly as TTE (Though not clearly opted for this particular post) which is a public dealing and commercial working post. Even in normal course TC has to pass written suitability Test before promotion as TTE while in this case, no screening or even a simple test is taken before absorption directly as TTE. Why efforts were not made to absorb them as per their earlier option in categories in which they had opted against clear vacancies as shown in DRM (E) RJT letter dated 22-6-92.

In addition, according to decision taken with Trade Union the absorption has to be restricted against only direct recruit vacancies. In Breach of this decision these surplus staff are absorbed as TTE Scale Rs. 1200-2040 which is not filled in by direct recruits that are filled in by departmental staff one hundred percent. Thus, the action of this decision at all levels needs thorough investigation in process of this case, purely at the disadvantage of our Branch. It is crystal clear that no attention is given to protect the future prospects of staff of our Branch. The direct recruitment is done in categories like Sr. D/Man, App. Chargman, TCI, SI Sr. Clerk, ASM, Guards, ACC, Jr. Clerk TC etc. and these surplus staff were correctly given option on 22-6-92 against these posts. Even, the categories like ASM, Guards, Wireless Operator where Telegraph Signallers have channel of promotion in normal course are not considered for absorption for reason kept known to administration. On the other hand, overtime in thousands of Rupees are paid

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in these categories.

In short, we again request your honour to consider our case which is based on merits and get the absorption order No. ET/839/5 of 5-8-93 as held in absence till such time, entire matter is investigated and vacancies are distributed for them on pro-rata basis. Needless to mention that this matter has brought us making mental torture for no fault and we seek immediate justice. Awaiting for favourable decision.

Thanking you,

Yours faithfully,

Encl :

DRM/E RR Letter

1. No. ET/839/5 Vol.II 22-6-92.
2. SS RJT letter No. E/1 of 8-7-92.
3. Copy of Paid Telegram dt. 26-8-93
4. Copy of Joint Meeting with ADRM /DPO and representatives of Unions of 3-6-93.

Copy to :-

C.P.O. CCG with a request for immediate intervention in life & death question for the Ticket Checking Branch and waiting for due justice.

General Secretary, WREU/WRMS

Divisional Secy., WREU/WRMS - for necessary action.

The Secretary,

Rly. Board, New Delhi. - for necessary action please.

TRUE COPY

A. L. Singh
A. L. Singh
Advocate

बीमा नहीं NOT INSURED
लगाये गये डाक टिकटों का मूल्य रु. 11 पै
Amount of Stamps affixed Rs. P.
एक रजिस्ट्री प्राप्त किया
Received a Registered REM
पानेवाले का नाम H. C. Bhatnagar
Addressed to 227
पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

क्रमांक 518
No.

तारीख मोहर
Date-Stamp
27-8-12

बीमा नहीं NOT INSURED
लगाये गये डाक टिकटों का मूल्य रु. 10 पै
Amount of Stamps affixed Rs. P.
एक रजिस्ट्री प्राप्त किया
Received a Registered REM
पानेवाले का नाम W. R. G. W.
Addressed to W. R. G. W.
पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

क्रमांक 519
No.

तारीख मोहर
Date-Stamp
27-8-12

बीमा नहीं NOT INSURED
लगाये गये डाक टिकटों का मूल्य रु. 10 पै
Amount of Stamps affixed Rs. P.
एक रजिस्ट्री प्राप्त किया
Received a Registered REM
पानेवाले का नाम The Secy
Addressed to The Secy
पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

क्रमांक 520
No.

तारीख मोहर
Date-Stamp
27-8-12

बीमा नहीं NOT INSURED
लगाये गये डाक टिकटों का मूल्य रु. 10 पै
Amount of Stamps affixed Rs. P.
एक रजिस्ट्री प्राप्त किया
Received a Registered REM
पानेवाले का नाम Chris Wams
Addressed to D. M.
पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

क्रमांक 521
No.

तारीख मोहर
Date-Stamp
27-8-12

बीमा नहीं NOT INSURED
लगाये गये डाक टिकटों का मूल्य रु. 10 पै
Amount of Stamps affixed Rs. P.
एक रजिस्ट्री प्राप्त किया
Received a Registered REM
पानेवाले का नाम Shri R. V. Vankar
Addressed to D. M.
पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

क्रमांक 522
No.

तारीख मोहर
Date-Stamp
27-8-12

बीमा नहीं NOT INSURED
लगाये गये डाक टिकटों का मूल्य रु. 10 पै
Amount of Stamps affixed Rs. P.
एक रजिस्ट्री प्राप्त किया
Received a Registered REM
पानेवाले का नाम Shri A. D. D. Sah
Addressed to Shri A. D. D. Sah
पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

क्रमांक 523
No.

तारीख मोहर
Date-Stamp
27-8-12

बीमा नहीं NOT INSURED
लगाये गये डाक टिकटों का मूल्य रु. 10 पै
Amount of Stamps affixed Rs. P.
एक रजिस्ट्री प्राप्त किया
Received a Registered REM
पानेवाले का नाम Shri D. D. D. Sah
Addressed to C. P.
पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

क्रमांक 524
No.

तारीख मोहर
Date-Stamp
27-8-12

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A-12
CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

D.A.No. 26 of 1992

Date of decision:

All India Guards Council & Others .. Applicants

vs.

Union of India & Others .. Respondents

Shri K.K.Shah, Advocate for applicants

Shri M.S. Shende, Standing Counsel for
Respondents 1 to 5.

Shri P.J.Patel, Advocate for Respondents 6 to 22.

CORAM:-


HON'BLE SHRI M.V.KRISHNAN, VICE CHAIRMAN (A)

HON'BLE SHRI R.C.BHATT, MEMBER (J).

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?

JUDGEMENT

(HON'BLE M.V.KRISHNAN, VICE-CHAIRMAN (A))



The facts of the case which have given rise to this application are simple. The first applicant is the All India Guards Council, represented by Shri Unesh Tripathi, Sr. Divisional Secretary, Baroda Division. The second and third applicants are working as Goods Guards. Respondents 6 to 22 were senior traffic signallers. They have been declared surplus. As a first step to get them absorbed as Goods Guards in the Traffic Department of the Baroda Division, the impugned order dated 30-1-91 (Annexure-A) has been issued by the Sr. Divisional Operating Superintendent (Baroda, the third respondent. The applicants are aggrieved by this alleged illegal order precluding their promotion directing them to undergo the promotion training course from 27-1-92 to 18-3-92.

The grounds on which the Annexure-A order dated

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30- are detailed are as follows:-

2.1 Rules regarding recruitment to various categories of posts under the Railways are contained in the Indian Railway Establishment Manual (IREM) Volume I- Para 124 of the IREM relates to the appointment of Goods Guards in the scale of Rs. 1200-2040. For our purposes, it is sufficient to note that 15% is by direct recruitment and the remaining 85% is filled by promotion from various feeder category posts. 31% is filled by selection from amongst Senior Train Clerks and Train Clerks. The remaining 54% is filled by selection from amongst the Ticket Collectors, Commercial Clerks, Switch-men, Yard staff and Breaks-men. It is worth noting at this stage that all the feeder category posts, except Senior Train Clerks, are in pay scales lower than Rs. 1200-2040 while the feeder category post of Senior Train Clerks alone is in the pay scale of Rs. 1200-2040 i.e. the same as the pay scale of Goods Guards. Telegraph Signalls are not eligible to be promoted as Goods Guards under Rule 124 and hence it is alleged that the Annexure-A order is illegal.


2.2 Another important point to be noticed is that Goods Guards are in receipt of running allowance, which is 30% of their pay. Therefore, though the pay scale of Guards is nominally Rs. 1200-2040, in effect, it is much higher. This fact has been recognised by providing that, in case a Goods Guard is medically decategorised, he should be given an alternative job in a pay scale of Rs. 1400-2300. It is contended that for this reason the Telegraph Signalls on the pay scale Rs. 1200-2040 cannot be absorbed as Goods Guards because this absorption will not be on an equivalent post but on a higher post of promotion.

2.3 In further support of this contention, attention is drawn to the Circular dated 7-12-90 (Annexure A.1)

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issued in connection with recruitment to the post of Goods Guards in which it is specifically stated in para 2(b) that Head Train Clerks/Yardmasters working in the higher grade of Rs.1400-2300 (R.P) and above, are not eligible to apply. Even- (-eleven) if they have asked for voluntary reversion as Senior Train Clerk in the scale Rs.1200-2040 (R.P). This seems to suggest that the posts of Goods Guards (Rs.1200-2040) are not open to persons in the grade of Rs.1400-2300, implying that Goods Guard also effectively carry a pay scale of Rs.1400-2300.

2.4 The respondents 6 to 22 are only Telegraph Signallers in the grade Rs.1200-2040. Considering the recruitment rules and the defective pay scale of the post as stated above, it is contended that these respondents could not have been absorbed as Goods Clerk which posts are effectively on a much higher pay scale though the nominal pay scale is only Rs.1200-2040. The intended absorption is, therefore, claimed to be illegal and violative of the provisions of para 124



2.5 It is claimed that the Annexure-A order should not have been passed without giving an opportunity to persons applicants, who are adversely affected by it, in at least three respects. Firstly, ineligible persons are sought to be absorbed. Secondly, such persons are to be given seniority by interpolation of their names among goods guards taking into account the service rendered by them as telegraph signallers on the pay scale Rs.1200-2040 and thus making them senior to many officials who are working as goods guards. Thirdly, this has deprived Assistant Guards, who are members of the Association (Applicant-1), their chances of promotion and also has reduced the chances of the goods guards for further promotion. It is thus contended

that these orders are violative of Article 14 and 16 of the Constitution.

2.6 It is also contended that, in the past, telegraph signallers rendered surplus have been absorbed in other posts only but never as goods guards.

2.7 Rule 124 of the IREM shows that direct recruitment from the open market is made by the Railway Recruitment Board. This obviously involves appearing in tests conducted by the board. Similarly, promotion from the lesser categories is by way of selection on considering the merits of all the candidates. The respondents 6 to 22 have not been subjected to either method of selection. Instead, they have been straightaway directed to attend promotion training courses by the impugned Annexure-A order with a view to absorbing them as goods guards.

2.8 The applicants have also a case that the options of the respondents 6 to 22 were for posts other than goods guards. Subsequently, fresh options for the posts of goods guards have been procured so as to lend support to the new case, that the absorption is in accordance with the option given by the surplus persons. In this connection, attention is drawn to the Annexure A-7 letter dated 22-11-91 addressed by the Divisional Secretary of the Eastern Railway Employees Union to the Divisional Railway Manager, Baroda in which it is complained that though S/Shri Arjun Das Chelani, N.P. Parmar and U.D. Thakur, surplus telegraph signallers, have opted for absorption as Working Clerks, they are being forcefully absorbed as Assistant Station Master. The applicants have also produced copies of the options stated to have been given by the thirty respondents for absorption on other posts like Working Clerk, Sr. Train Clerk etc to show that they had never opted to be absorbed as goods guard. There were alleged to be

introduced alongwith M.A.201/92. These option forms have been marked as documents 1(a) to 1(j) in the said M.A.

2.9 It is also alleged that some of the respondents have already been absorbed earlier on other posts before the impugned Annexure-A order was issued and therefore, they have long ceased to be surplus personnel and the question of absorbing them did not arise at all. Thus it can be seen from the Annexure-A order itself that the persons at Sl.No. 12 and 16 are not telegraph signallers but are shown as senior train clerks and the person at Sl.No.17 is shown as senior clerk. Secondly, reference is made to the Annexure-1.5 order dated 14-5-91 which states that the telegraph staff named therein who have been found surplus are adjusted in different categories as decided by the Sr.Divisional Operating Superintendent, Sr.D.C.S and Sr.D.P.O and approved by the ADRM-1. The list of persons who have been so adjusted includes H.C.Ramawat (R-15), JB Sayyed (R-19 and KG Parmar (R-22). Similarly, attention has been drawn to a still earlier order dated 13-2-90, produced by the applicants along with their rejoinder and marked as Annexure R-3 (now marked by us as Annexure A-8) which shows that the telegraph signallers shown therein were proposed to be utilised as A.S.As. This order includes the names of Shri AM Mirza (R-8, OD Thakur (R-9), and NP Parmar (R-12) at Sl.Nos.23, 24 and 32, respectively. Thus, persons who have ceased to be surplus telegraph signallers have been absorbed as goods guards. It is alleged that this is due to the undue interest shown by the fifth respondent, Shri Vidhu Kashyap, against whom malafide is alleged.

2.10 Lastly, it is contended that no competent authority has given a direction that the signallers who have been rendered surplus can be absorbed as goods guards. It is

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stated that such an order can be passed only by the General Manager and no order passed by him has been produced.

3. It is in these circumstances that this application has been filed for quashing the Annexure-A order dated 30-12-91 as being illegal and mala fide and directing the Railways to absorb Respondents 6 to 22 on other posts.

4. The respondents 1 to 5 are the official respondents. A reply has been filed only on behalf of the fourth respondent i.e. the Divisional Railway Manager (E) Baroda by the Divisional Personnel Officer of that Division. The reply does not state that it is a reply on behalf of the other respondents also. Neither the Union of India, the first respondent, nor the Chairman Railway Board, the second respondent, has filed any reply. The 5th respondent Shri Bhu Kashyap the Sr. Divisional Personnel Officer, who is personally impleaded because certain allegations have been made against him, has also not filed any reply.

5. The fourth respondent has denied the allegations made in the application and contended that no relief is due to the applicants.

6. It is stated that 39 posts of telegraph signallers in the traffic department were surrendered by the Divisional Officer Baroda dated 24-12-91 and hence, the incumbents in these posts, which includes the respondents 6 to 22, were rendered surplus. Therefore, in accordance with the extant orders of the Railway Board, they were given alternate jobs according to their options. A copy of the standing instructions issued by the Railway Board on 21-4-89 on the subject 'Absorption/Utilisation of surplus staff' has been produced for perusal and is on record. It is further claimed

that it is in accordance with the Chief Operating Superintendent's letter No.ET/834/1712-AVC that the surplus staff are absorbed as booking clerk, office clerk, train clerk and goods guards. It is in pursuance of this direction that the impugned order dated 30-12-91 Annexure-A has been issued directing respondents 6 to 22 to undergo promotion training relevant for appointment as goods guards.

7. The fourth respondent admits that surplus staff similarly placed like the applicants were also given option to be absorbed against some other posts like Assistant Station Master, Assistant Commercial Clerk, etc and as a matter of fact, some persons had been absorbed on such posts.

8. It is contended that traffic signallers and goods guards, belong to the traffic department and therefore, the surplus traffic signallers can be absorbed as goods guards. It is also averred that the avenue of promotion to the post of goods guards given in Rule 124 of the IREI can be amended and modified by the orders of competent authority. Annexure R-1 document encloses a copy of a d.o.letter No.ET/834/1712(AVC) dated 2-11/12-91 from BN Meena, SPO(T) CCG to Vidhu Kashyap, Sr.DPO, Baroda. As this letter is an important document, it is reproduced below:-

"Subj: Alternate opportunities of working for redundant/surplus Tele. staff.

Competent authority has ordered that Manual Rules of AVC are not applicable in case of surplus staff. There is no objection in considering Telegraph Signaller for absorption in Guard 'C' i.e. in equivalent grade."

It is contended that this gives the necessary authority for the absorption of the respondents 6 to 22 as Goods Guards.

9. It is contended that the competent authority has the full authority to absorb the surplus employees from

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 one category to another in the interest of the applicants. In the normal course, the seniority of the absorbed employees is fixed by interpolation of their names alongwith the names of the persons who are working as Guards. Nevertheless in order to protect the interest of the applicants and the persons who are working as Guards on the date the impugned Annexure-A order was issued, it has been decided that the names of absorbed employees (i.e. respondents 6 to 22) would be placed at the bottom of the list of Good Guards so that no person is affected by their absorption. The Annexure R-2 order dated 25-3-92 issued by the fourth respondent has been produced in this connection. It is, therefore, contended that the applicants cannot have any grievance against the eventual absorption of respondents 6 to 22 as Good Guards.



It is also contended that respondents 6 to 22 had opted for being absorbed as Good Guards and in support thereof copies of their options have been produced alongwith the order dated 4 of 1993.

10. In so far as the earlier absorption of some of the respondents by the Annexure A-5 order dated 14-5-91 is concerned, the 4th respondent admits that the telegraph staff referred to in that order who were found surplus were adjusted in different categories. He has further stated in the following:-

".....It is submitted that all 24 employees shown in Annexure A/5 working in Baroda Division were posted in different categories in Baroda Division itself. It is not disputed that J.B. Selye at serial No. 14 in Annexure A/5 was posted as Senior T.M.C. in the same scale. It is submitted that the options given by the said surplus staff were also taken into consideration before their posting."

11. For all these reasons it is urged that the application

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...which they have generally endorsed the stand taken by the fourth respondent. In addition, it is stated that, initially the respondents 3 to 22 were asked to give an option to work on the post of Assistant Guard, in addition to other posts like train clerk, etc. The other posts for which they were permitted to give option carried a pay scale of Rs.1200-2040. The post of Assistant Guard however carried the pay scale of Rs.950-1400 whereas the surplus staff were working on the higher pay scale of Rs.1200-2040. Hence, it was not possible for respondents 6 to 22 to give an option for their absorption as Assistant Guards. Therefore, at their request, Shri R.K.Tandon, Sr.Divisional Operating Superintendent, Baroda sought a clarification from the Headquarters by his letter dated 30-8-91 to permit these respondents to opt for the post of Goods Guards 'C' also. A copy of this letter is enclosed to the reply and is reproduced below:-

■ Subj: Alternate opportunities of working for redundant/surplus Tele.staff.

On the division, in the last 4 years, Telegraph staff have been surrendered due to rationalisation and curtailment of work and improvement in the communications. More staff from this category is likely to become surplus soon. The surplus staff have been absorbed as ASNs, TNCs, Office Clerks and Booking Clerks in terms of COPS(E) as letter No.CT/834/17/2/AVC dated 30th Oct. 90. The above mentioned letter (copy enclosed) indicated that the surplus telegraph staff can be absorbed as Asstt.Guards as well. Since a large number of surplus telegraph staff is in 1200 and above scales, it is not possible for them to be absorbed as Asstt. Guards in case they want to opt for the same. In view of the above it is suggested that, since the natural promotion for an Asstt.Guard is as Guard 'C', guard's category should also be declared opened, at least in 1200-2040 as far as Guard 'C' is concerned. This will go a long way not only in getting the experienced staff as guards after giving them required training, but also help in rehabilitating the surplus bodies without causing them any serious dislocation."

13. The respondents claim that when this authority was received, the respondents 6 to 22 posted for the post of Guard 'C' and they were then deputed for promotion training by the annexure-A letter. It is therefore claimed that the orders in annexure-A ^{are} in accordance with law.

14. It is also contended by them that in the case of absorption of surplus staff, Rule 124 of the IREM has no application. They contend that they are absorbed in a post of an equal grade, subject to passing the training course for which they have been deputed by the annexure-A order after they have passed the A-2 medical test. They also affirm that such absorption can be done at the discretion of the ^{ADMINISTRATIVE} always in the interest of administration and this cannot be questioned by the applicants.

15. The respondents also point out that they are willing to accept seniority in the cadre of Guards as decided by Railways so that the applicants can have no grievance against them, even though they have a right to claim full seniority on the basis of the length of service rendered by them in the earlier post of senior signallers.

16. The applicants filed an unnumbered M.A. on 15-1-93 for a direction to the respondents to produce three office memoranda abstracts which were enclosed with the M.A. It was stated in the M.A. on the basis of reports in the periodicals "Railway Sentinel" June 1992 and November 1992 that by a circular of the Railway Board No.E(NC)/90/PM2/2 dated 1-8-91 a decision had been taken that the 15% of the posts of Goods Guard reserved for direct recruitment should also be filled up by promotion from serving graduates having

8 years minimum service in the category of assistant clerk, train clerk, commercial clerk, ticket collector, assistant guard, shunting Janitor and switch-man. This was followed by another circular dated 6-3-92 stating that in view of this decision, only notifications for direct recruitment issued prior to 1-8-91 should be operated and notifications for direct recruitment issued after 1-8-91 should be scrapped. In view of this decision, it is contended that the surplus personnel cannot be absorbed as Goods Guards as this will be in the nature of a direct recruitment. The Union O.M. relates to the protection of the last pay drawn by surplus staff on their absorption. The applicants wanted a direction to the Railways to produce this O.M. The P.A. was finally heard along with the O.A. and orders were reserved.



It is also to be mentioned that on the final date of filing M.A. 23/93 was filed by three applicants who were senior train clerks to implead themselves as parties to support the application. That M.A. was rejected.


16. We have heard Shri KK Shah, counsel for the applicant, Shri MS Shewda, Standing counsel of the Railways (i.e. respondents 1-5) and Shri P.J. Patel, counsel of respondents 6 to 22.

18. The learned counsel for the applicant contended that the post of Goods Guard is a higher post of promotion and therefore, the telegraph signallers should not have been absorbed in these posts, because absorption of surplus personnel should be against posts at the same level or an lower post. He also contended that the annexure R-1 clarification is not a proper authority which gives sanction to such absorption. In fact, he doubts its authenticity. There is evidence to show that many of the party respondents

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The above, hold further absorption of goods guards as malafide and motivated.

20. Shri U.S. Shende, learned counsel for the respondents 1 to 5 urged that the posts of goods guards are equivalent posts and cannot be considered to be higher posts for absorption of senior signallers. This is due to the fact the notified scales of both the posts of senior signallers and goods guards 'C' are the same, namely Rs. 1200-2040. The running allowance should not be taken into account while evaluating the equivalency of the posts. He was, however, unable to explain why, in Rule 124 of the IREM, it is shown that senior train clerks who are, admittedly, on the same scale Rs. 1200-2040 as goods guards, are shown as being eligible for promotion to the latter post. He claims that annexure R-1, having been issued by the Headquarters office is an adequate authority which empowers absorption of signallers as guards also.



21. Shri P.J. Patel, the learned counsel for the contesting respondents endorsed the views expressed by Shri Shende. He urged that the question of absorption is a matter of policy to be decided by the Railways in which the applicants will have no voice at all.

22. We have carefully perused the records and given our careful consideration to the rival contentions advanced by the parties.

23. As we see it, this O.A. raises three issues for its disposal.

- ✓ 1) Can a person rendered surplus be absorbed in lieu of retrenchment, only on an equivalent post or a lower post and never on a higher post?

...in the same pay scale or, is it a higher post due to other considerations?

Viii) In case it is held that the post of goods guard is not an equivalent post for the surplus absorption of senior signallers, are there any orders of the competent authority that, nevertheless, such absorption can be done?

We shall consider them serially.

24. The first issue need not detain us long for the answer has to be only in the affirmative. A person who is rendered surplus is normally liable to retrenchment in accordance with law. If the employer chooses to rehabilitate him, he is at liberty to employ him even on a lower post. At best, he can be considered for absorption on an equivalent post only. Unless the law otherwise provides, he forfeits his past service for purposes of seniority in the post of absorption as held by a Full Bench of this Tribunal in P.K.Dass Vs. Union India (O.A.826/88 of the Principal Bench). Absorbing a person on a higher post will be in breach of all principles of natural justice and be unjust to those who are holding similar posts or who are in the queue for promotion to such post. It will be a discriminatory act and liable to be quashed on that ground.

25. The second issue is important and calls for judgement considering many attendant circumstances. Normally,

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senior signallers in the pay scale of Rs. 1200-2040 become surplus can be absorbed in any post carrying the same pay scale or a lower pay scale. Their absorption in other posts carrying the same pay scale e.g. Assistant Station Master, Senior Train Clerk, etc has not been questioned. The post of goods guards also carries the same pay scale. Prima facie, it would therefore appear that senior signallers can be absorbed as goods guards also. The question is whether, nevertheless, the post of goods guard is to be treated as higher post.

26. We notice from rule 124 IREM that one of the feeder category posts for promotion as goods guards, is senior train clerk which carries the same pay scale Rs. 1200-2040 as Goods Guard. Shri N.S. Shetty, the learned counsel for Railways was unable to explain why a senior train clerk

should be "promoted" to the post of a Goods Guard when, both the posts carry the same pay scale and why he

should be subjected to the rigours of the process of promotion as indicated in the annexure A-1 Memorandum dated 1/1/54 issued in connection with drawing of a select list

from persons holding posts in feeder category for promotion as goods guard. If the two posts are equal, there could be free lateral absorption subject to suitability in other respects. Prima facie, it, therefore, appears that though the post of Goods Guard is on the same pay scale, yet, for some reason, it is considered to be a post of promotion even to a senior train clerk holding the same pay scale.

27. We also notice from paras 122 to 135 of the IREM which deal with posts in the Transportation (Traffic) Department that there is no other instance where the feeder category post carries the same scale of pay as the promotion post. Invariably, the feeder category post is in a lower pay scale.

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Hence, this provision in Rule 124 relating to 'promotion' of senior train clerk as goods guard, is significant.

28. This can, perhaps, imply that though the pay scale is the same, there is something in the post of goods guard which makes it superior to the post of senior train clerk. May be, the superiority lies in the fact that a post of goods clerk also carries a running allowance of 30% of the basic pay for, that appears to be the most transparent reason why the status of the post of goods guard could be evaluated differently.

29. There are other circumstances to show that the nominal pay scale of Rs.1200-2040 attached to the post of Goods Guards shields the important fact that the intrinsic worth of this post is greater than what the pay scale reveals.

30. Firstly, it is admitted that if a goods clerk is medically decategorised and is required to be given an alternate post, he has a right to be considered for a post carrying the pay scale Rs.1400-2300. In other words, post of goods clerk in the pay scale of Rs.1200-2040 on which he worked is considered to be equivalent to a higher post in the pay scale of Rs.1400-2300. Obviously this is due to the weightage given to the 30% running allowance attached to the post of a goods clerk.

31. It would appear that the running allowance is not a mere compensatory allowance. Had that been so, it could have been ignored as soon as one ceased to hold the post of goods guard. On decategorisation the employment can be on the scale Rs.1200-2040. On the contrary, the running allowance appears to be something in the nature of a special pay, which is a real addition to one's pay on the post. Perhaps, it is for this reason, that when a goods guard is medically decategorised, he has admittedly to be absorbed on a post carrying a higher pay scale of Rs.1400-2300.

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12. Further evidence is available from the annexure A notice dated 7-12-90 relating to the filling up of the posts of goods guards in the scale Rs.1200-2040 by promotion. This notice contains the following provisions in para 2(6) which are quite significant:-

"Hd.TNCs/Yd.Masters working in higher grade i.e. scale Rs.1400-2300 (RP) and above are not eligible to apply. Even if they have asked for voluntary reversion to Sr.TNCs scale Rs.1200-2040(RP)."

This appears to make it clear that anybody who is already in the pay scale Rs.1400-2300 cannot volunteer to appear in the selection of goods clerk in the lower pay scale of Rs.1200-2040 even by consenting to his voluntary reversion to a lower grade in the parent cadre. This seems to suggest that the holder of a post in the pay scale Rs.1400-2300 is already holding a post which is equivalent to that of a guard in the pay scale Rs.1200-2040 and hence, he is excluded

from consideration. This equivalence sounds reasonable, if the running allowance attached to the post of guard is also taken into account.

Further, paras 6 and 7 of the same notice seem to corroborate this conclusion. They read as follows:-

6. An employee who has opted for guards branch will not be eligible for promotion in his parent branch. However adhoc promotions made in exigent cases of service will not affect his eligibility for promotion as goods guard.

7. An employee once promoted to higher grade in his parent branch in a regular vacancy in his own branch will not be eligible to opt for guards branch. When an employee who has opted for guards branch is allowed change of option or if he fails at the guards examination even after being given second chance he will be eligible for promotion in his parent branch. In such cases he will take seniority below those already promoted."

34. It is also significant that, until the annexure-1 order was issued on 30-12-91, there has not been a single instance of absorption of a surplus senior signaller as

Shri RK Tandon, Senior DDO, Baroda to Shri MS Duggal...

CPTS-CCC (produced with the reply of respondents 6 to 22) — and marked by us as annexure R/A-1), shows that the guidelines given by the letter No.ET/834/17-2 AVC dated 30-10-90 provided that surplus telegraph staff can be absorbed also as Assistant Guards in addition to other posts. In other words, the Headquarters probably felt that the post of Assistant Guard in the pay scale of Rs.950-1500 is, more or less, equivalent to the post of senior signaller in the pay scale Rs.1200-2040 for the purpose of absorbing surplus signal staff, taking into account the running allowance attached to that post. Therefore, the post of Goods Guard in the pay scale Rs.1200-2040 is necessarily to be treated as a post higher than the post of senior signaller.

For the aforesaid reasons, we hold that the post of Goods Guard in the pay scale Rs.1200-2040 is a much higher post than the post of senior signaller in the scale of Rs.1200-2040 and hence, the surplus senior signallers cannot be absorbed as goods guard without violating the norms for such absorption as referred to by us in para 24 supra.

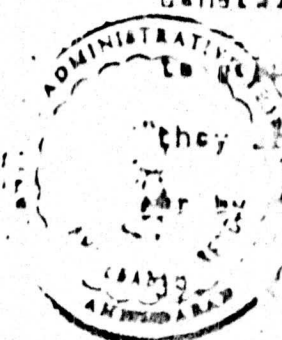
37. Having held so, it would have been proper to pass a final order on that basis. But we find we have to consider whether, notwithstanding this position, the competent authority has, by relaxing the normal rules, passed any order which can be considered to be valid in the eyes of law. It may be recollected that in the replies furnished by respondents 4 and 6 to 22, a stand has been taken that the Railways have full powers in the matter and the D.O.



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44 - letter dated 2-11/12-91 of BN Meena, BPO(T) CCO, is in the
Kashyap, Sr.PPO, Baroda (annexure R-1) is cited as the
authority for the issue of the impugned annexure-A order.
The learned counsel for the applicant, however, has
contended that only the General Manager, Western Railway
is competent to pass such orders.

38. The Indian Railway Establishment Code, admittedly,
contains statutory rules in regard to various service
conditions of the railway employees. Rule 217 of the Code
(Fifth Edition-1985) states that rules in respect of group
'C' and 'D' posts are contained in the Indian Railway
Establishment Manual. Rule 124 of the Code provides that
General Managers have full powers to make rules with regard
to group 'C' and 'D' employees under their control, provided
they are not inconsistent with any rule made by the President
or by the Ministry of Railways.

 Thus, the provisions in Rule 124 in the IREM relating
to recruitment to the group of posts under category 'General'
is a statutory rule. There is no provision in this rule
for recruitment to the post of guards by absorption of
surplus personnel. However, rule 114 IREM empowers the
General Manager or the Chief Administrative Officer to relax
the rules, for reasons to be recorded in writing in specific
individual cases. They are also authorised to issue orders
which may be in deviation of the existing rules, provided
such deviation is of a temporary nature. The Railway Board's
prior approval is required for a long term or permanent
alteration of the rules. Permanent absorption of surplus
personnel, otherwise than provided for in the recruitment
rules, is a deviation which can be authorised under rule
114 IREM by the General Manager after obtaining the

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Memorandum of the Railway Board.

40. Standing instructions have been issued by the Railway Board in their letter No.E(MC)II-84/RE-1/10 dated 21-4-89

on the subject 'Absorption/utilisation of surplus staff.

This has been circulated by the letter dated 23-5-89 of the Western Railway. This letter has been produced for our perusal by Shri NS Shewde. This circular recapitulates the earlier instructions regarding the absorption and utilisation of staff rendered surplus on the change of traction and full/partial closure of steam loco-sheds etc. and, broad guidelines have been given. Para 2(III) clearly states that "Utilisation and re-deployment of surplus staff by re-training, if necessary, should be given the highest priority and their absorption will have precedence over all other modes of recruitment, including screening of casual labour and direct recruitment for filling up the vacancies so that the existing surplus staff can be first utilised at suitable locations including places where additional posts are created for operation/maintenance, and for new assets." Para 3(II) is important and is reproduced below:-



3. When re-deploying the surplus staff to other units, which constitute a different entity unit, the following methods can be adopted:-

(i) When a large number of staff are being rendered surplus and they are being transferred to new units that are being setup like traction rolling stock, overhead equipment, new electric loco sheds etc., they should be given their full seniority and there should be no difficulty in re-deploying the staff with suitable re-training in identical scales and suitable trades. No minimum educational qualification should be prescribed and the sole criteria should be their ability to absorb retraining/conversion training and pass the necessary tests at the end of training period and of course, medical fitness."

41. A careful perusal of this letter shows that absorption of such surplus staff is to be given priority over all

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other modes of recruitment. This is sufficient for General Managers to issue suitable instructions. Under Rule 11a IRM on the subject. This, however, does not give a license to any authority to absorb the surplus personnel in any post. The tenor of the entire circular and more particularly, para 3(ii), makes it clear that they should be absorbed in posts carrying identical scales, in which case their full seniority can also be protected.

42. We can now consider the order contained in the letter at annexure R-1. The learned counsel of the applicant states in his written arguments that this document appears fictitious because it is dated 15-1-92 but signed on 13-1-92 i.e. even before it came into existence. Patently, the learned counsel for the applicant has not correctly interpreted this document. It is clear from annexure R-1 that a D.O. letter dated 2-11-91/2-12-91 was sent by BN Meena to Vidhu Kashyap, Sr. Divisional Personnel Officer, Baroda. A copy of that letter has been endorsed to all the subordinate authorities by the Divisional Office, Baroda. The forwarding letter has been signed on 13-1-92 but the date of its despatch is 15-1-92 i.e. the authority signed the letter on 13-1-92 and despatched it on 15-1-92. The material instruction is the D.O. letter dated 1-11/12-91 issued by BN Meena.

43. We have no doubt about the genuineness of the letter. However, the further question is whether it is a sufficient authority to authorise the fourth respondent to absorb telegraph signallers as goods guards. The only railway authority who could have considered this issue authoritatively is the first or the second respondent. Neither of them has filed a reply. Only respondent 4 has filed a reply. Respondents 1 and 2 have not endorsed this reply filed

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the fourth respondent which states that the annexure R-1 is an order passed by the competent authority and gives the fourth respondent sufficient authority to absorb respondents 6 to 22 as Goods Guards. 47

44. The question is whether the annexure R-1 letter gives a valid authority to respondent 4 to issue the impugned order. We are of the view that it does not. Firstly, that order is neither passed by the General Manager or by his Chief Personnel Officer. That letter could not have been issued without first considering whether the post of guard is equivalent to the post of senior telegraph signaller or it is a higher post and the propriety of absorption on a higher post. As we have found that the post of guard is a higher post, the R-1 letter is contrary to the guidelines contained in the Railway Board's letter dated 21-4-89 referred to above.

45. In the circumstances, we feel that it is not necessary for us to go into the merits of the other grounds urged in this application.

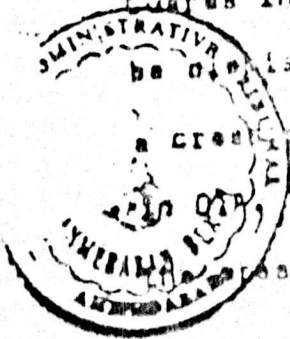
46. For the detailed reasons given above, the annexure-A order is liable to be quashed.

47. On the final date of hearing, the learned counsel for applicants submitted that the judgement that may be pronounced in this case should also govern J.A.321/92 which was, however, not listed for hearing with this application. We had then stated that, if on verification it is found that J.A.321 of 92 relates to the same matter, it could also be disposed of by the present judgement.

48. We have called for O.A.321/92 and on notice that the

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eleven applicants therein are all respondents in the present application i.e. O.A.26/92. The prayer in that O.A. in the direction should be issued to the Railway administration to absorb the surplus signal staff as Guards in the grade R.1200-2040 and that the O.A.26/92 be dismissed. It is thus clear that the O.A.321/92 is a cross application made by some of the party respondents O.A.26/92. Therefore, it can be disposed of by present judgement.



49. In the circumstances, we dispose of this application (i.e. O.A.26/92) with a declaration that the senior signallers in the grade R.1200-2040, who have been rendered surplus, cannot be absorbed as goods clerks in the grade R.1200-2040, because the latter post is not in an equivalent grade but is in effect, on a much higher grade and the absorption would, therefore, amount to be a promotion which is unjustified and discriminatory. Hence, we quash the impugned annexure-A order of the third respondent dated 30-12-91 directing the respondents 6 to 22 to attend the promotion training course for Guard. The unnumbered R.A. referred to in para 18 becomes infructuous and is dismissed.

50. For the same reasons, the cross application O.A.321/92 has to be dismissed. The necessary orders in connection are being passed separately in that There is no order as to costs.

Sd/-
(R.V. Krishnaraj)
Vice Chairman

Sd/-
(P. V. B. Reddy)
Member (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

DA No.321/92

Date of decision: 01/03/92

Misrar Ahmed M. Pathan & ors.

Applicants

vs.

Union of India & Ors.

Respondents

Shri F.J. Patel, Advocate for the applicants

Shri N.S. Shrivastava, Standing Counsel for the respondents.

COMMISSIONERS:-

HON'BLE SHRI N.V. KRISHNAN, VICE CHAIRMAN (A)
HON'BLE SHRI R.C. BHATT, MEMBER (J)

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?

ORDER

(HON'BLE SHRI N.V. KRISHNAN, VICE CHAIRMAN (A))



In our order in DA No.26/1992 (All India Board Council & Ors. Vs. Union of India & Ors.) delivered today, we have come to the conclusion in paragraph 50 thereof that for the reasons for which DA No.26/1992 has been allowed, this cross application has to be dismissed. A copy of the judgement in DA No.26/92 is annexed with this order. In the light of that judgement, we dismiss this application. There will be no order as to costs.

Sd/-
(R.C. Bhatt)
Member (J)

Sd/-
(N.V. Krishnan)
Vice Chairman

Proposed by: _____
Done and by: _____

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Approved
by (J) 01.03.92
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copy

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A copy of GM(E) CCG letter No.E(RET) 1136/27 Vol.V dt.23.2.84
to All concerned.

Sub: Man power planning -Absorption/Utilisation of surplus staff

A copy of Railway Board's letter No.E(NG)II-84/RE-1/10 dt.
21.4.89 is reproduced below for information and necessary action
Board's letters referred to therein have been circulated as
detailed at P.4c.

Hindi version will follow.

Encl: As above.

Copy of Railway Board's letter No.E(NG) II-84/RE-1/10 dt.21.4.1989
addressed to General Managers, All Indian Railways and others.

Sub: Absorption/Utilisation of surplus staff.

Ref: Board's letter Nos E(NG)II-81/RE-1/5 dt 15-1-1984

and E(NG)II-84/RE-1/10 dt.26.10.1984, 9.4.1985, 26.7.1985
and E(NG)II-84/RE-1/10 dt.11.9.1985 and 31.3.1987.

Consequent on the change of traction and the full or
partial closure of steam loco sheds marshalling yards, goods
shed and other redundant assets certain guidelines have
already been issued from time to time regarding the absorption
and utilisation of surplus staff. These are broadly indicated
below: -

- (1) Suitable advance planning should be done to
identify areas in which the staff are likely
to be rendered surplus. At such places the
surplus posts, which are lying vacant, should not
be filled up and surrendered as "vacancies" to
the "bank of surplus posts". Appropriate Schemes
for providing training in alternative jobs as
required should be developed and planned at the
time of advance planning itself so that these
surplus staff can be suitably and quickly re-
deployed in other areas where there are additional
requirements of staff for operation and maintenance
of additional/new assets.
- (ii) As soon as the posts are identified as surplus
a formal office order should be issued immediately
surrendering surplus posts. Where the posts are
not vacant and staff are working against them,
"Special Supernumerary" posts in the same grade should
be created. Simultaneously they should
be credited as "Special Supernumerary posts" to
the "bank of surplus posts" and maintained
in the respect billing units. However, the question
of creating "Special supernumerary" posts would not
arise to the extent the surplus staff are transfe-
red and posted against the vacancies in the same
or other departments. Such posts will be directly
credited as vacancies to the Bank of surplus posts.

- (iii) The surrendered posts should be surrendered as per the relevant cadre registers and check registers and records based on the formal orders issued.
- (iv) The incumbents borne against these "Special Supernumerary" posts should be re-deployed quickly against other posts by retraining as necessary.
- (v) The "Special Supernumerary" posts shall be personal to each incumbent and are to be surrendered as soon as the incumbent is absorbed in some other duly sanctioned posts or retires or vacates it for any other reasons.
- (vi) When these "Special Supernumerary" posts are thus surrendered they should be credited as vacancies in the bank of surplus posts and can be utilised as matching surrenders for creation of additional posts for maintenance and operation of additional/new assets. The surrendering of "Special Supernumerary" posts for crediting them as vacancies in the bank and utilising them for creation of additional posts for accommodating surplus staff against them can be simultaneous also.
- (vii) The staff, who cannot be immediately absorbed after retaining where necessary, against other/sanctioned posts should be allowed to continue against "Special Supernumerary" posts in the same grade in which the incumbents were working and they will continue to have their lien in their old cadre posts, so as to keep their promotional prospects intact. The Railways should set up suitable machinery to review the utilisation/re-deployment of staff being borne against "Special Supernumerary" posts.
- (viii) Whenever a fairly large number of staff are likely to be rendered surplus in a particular location, the recognised unions should be advised in time, as far as possible, and their view regarding their re-deployment taken into account to the extent possible so that the surplus staff are fully utilised and re-deployed quickly.

2. Even though the above instructions have been in force for quite some time and different Railways have been adopting different practices for re-deployment of surplus staff, it has been found that on some Railways in certain pockets surplus staff continue to remain without proper re-deployment. Further, both the Federations have represented to the Board that no advance planning is being done by the Railways for identifying the areas where surplus staff are likely to be generated and recognised unions are also not being advised regarding the date by which they are likely to be rendered surplus and the modalities of their training and re-deployment. The subject has been discussed in the recent PMA meeting held with NTR and AIRS. In the light of these discussions, the following broad guidelines are once again reiterated to the Railways particularly in the context of large scale electrification and consequent surrender of steam/diesel posts:

- (1) Each Railway Administration should draw an advance plan of action for identifying the areas where surplus staff are likely to be generated and advise the recognised unions in time, as far as possible about the same giving details of the staff likely to be rendered.

surplus

- 1) No new activity should be started at the location where the staff are likely to be rendered surplus, for accommodating them at the same place, without the prior approval/sanction of the Railway Board. Where special circumstances warrant the same, suitable proposals should be sent well in time to the Board with the personal approval of the General Manager. Board except that such cases will be few and far between In no case Board's approval should be presumed.
- (ii) Utilisation and re-deployment of surplus staff by re-training, if necessary, should be given the highest priority and their absorption will have precedence over all other modes of recruitment including screening of casual labour and direct recruitment for filling up the vacancies, so that the existing surplus staff can be first utilised at suitable locations, including places, where additional posts are created for operations/maintenance of additional/new assets. Advance planning and obtaining the views of the Unions as far as possible in time, regarding re-deployment of all staff is very essential, particularly when large number of staff are likely to be rendered surplus at a particular location.
- iv) There shall be no recruitment in those categories in which posts are likely to be rendered surplus and the categories in which surplus staff are likely to be re-deployed. Surplus staff can be absorbed in the existing vacancies or against new posts, which are duly sanctioned for operation/maintenance of additional assets/new assets.
3. When re-deploying the surplus staff to other units/Depts which constitute a different seniority unit, the following methods can be adopted: -
- (1) If only a small number of staff are being rendered surplus and they have to be transferred to various units of other departments against vacancies of duly sanctioned posts, they can be suitably adjusted in those units with their full seniority and merging their seniority in the respective units.
- (ii) When a large number of staff are being rendered surplus and they are being transferred to new units that are being set up like traction rolling stock, overhead equipment new electric loco shed, etc, they should be given their full seniority and there should be no difficulty in re-deploying the staff with suitable re-training in identical scales and suitable trades. No. minimum educational qualification should be prescribed and the sole criteria would be their ability to absorb retraining/conversion training and pass the necessary tests at the end of training period and of course medical fitness.
- (iii) Whenever a large number of staff have to be transferred to existing units against vacancies or additional sanctioned posts, the view of the unions may be taken as to whether the seniority of the staff being shifted should be kept separate against the "Special Supernumerary" posts, so that their promotional prospects are kept separate and identical to what they would have achieved in the old unit and it does not jeopardise the promotional prospects of the staff in the units in which they are being inducted. In such cases, the

Application of percentage distribution of posts would be separate for the existing cadre and the surplus. If surplus be brought into that cadre, the latter being controlled by the percentages as applicable to their previous cadre. However, as and when there is wastage through retirement promotion etc. in the seniority unit of shifted staff charged against "Supernumerary" posts in the direct recruitment grades the direct recruitment quota of the same should be merged with the existing cadre seniority of that unit i.e. the unit in which they had been re-employed on becoming surplus.

4. In cases where the seniority of surplus staff is maintained separately, there could be cases where the few staff who are left behind in the old seniority unit continue to get their promotion or their seniority along with the other staff transferred to the new unit. To this extent it may happen that in some cases, where the number of staff left behind in the old unit are small, a small number of higher grade posts may have to be operated in excess of the percentage laid down so as to avoid transferring the staff left behind in the old unit. However, it shall be ensured that the total number of posts in each grade of the old unit taking into account those both left behind and transferred to the new unit shall not exceed the original sanction.

Lmp 5. Normally, the junior most of the employees should be rendered surplus, irrespective of the manner in which they had entered the grade. However where staff give their willingness to go on, not on seniority in recruitment grades to other departments such volunteers should be given preference depending upon the availability of vacancies in the other cadre and their suitability, including medical fitness.

6. This is in accordance with the experience of the Finance Directorate of the Ministry of Railways.

7. Please acknowledge receipt.

Not below

Ref: HQ's letter No. & date

- 1. (NG)-81/RE-1/5 dt. 10.1.82
- 2. (NG)-84/RE-1/10 dt. 26.10.84
- 3. do- dt. 9.4.85
- 4. do- dt. 26.7.85

- HQ's office letter No and date.
- E(RST)1136/27 Vol. III dt. 28.1.82
- EP/261/O dt. 26.11.84
- E(RST)1136/27 Vol. III dt. 26.4.85
- E/RET/1136/27 Vol. IV dt. 29.2.85
- E/RET/1136/27 Vol. IV dt. 15.10.85
- E/RET/1136/27 Vol. IV dt. 31.7.87

5. do- dt. 11.9.85

6. do- dt. 31.7.87

No EP/1136/22 Vol. II

Date: 26.6.1989

C/ All Br. Officers RST division, Supts/EE, EM & ET for information, guidance and necessary action.

HQ office letter as quoted therein were circulated to all concerned under this office letter no even 3.2.82, 17.5.85, 29.8.85, 7.11.85 & 10.8.87.

For DPO - Rajkot.

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Western Railroad

Statement showing the over time earned by the staff of Traffic and Mech. paid in June. 93 with the correspondence period of April. May. 92 paid in June. 92.

Category: March-April 93 paid in May. 93 April-May. 93 paid in June. 93 April-Mar. 92 paid in June. 92.

No. of Hours: Amount staff No. of Hours: Amount staff

Guard Mail/	14	265	10554	-	-	-	17	604	24626
Exp./Pass.									
Guard Goods	42	1044	31552	52	1577	52614	31	807	23242
Total	56	1309	42106	52	1577	52614	48	1491	47778
Driver Mail/	-	-	-	1	11	452	3	16	479
Exp./Pass.									
Driver Goods	18	213	6301	12	212	6946	15	176	5694
Shunter	21	282	7764	23	460	12219	62	962	27310
DI/Asst:	21	307	6593	17	226	4473	5	37	642
F/Man	8	97	1849	12	290	6619	62	1484	31263
Ind F/Man	1	10	191	5	23	497	32	900	15476
Total	69	909	22697	75	1227	31221	179	3605	80364
SM/ASH	296	10634	27860	321	14332	415390	292	9600	123303
C/Man	42	1121	1752	41	1203	21777	34	2117	35172
HTC/TNC	26	454	934	37	1005	41078	31	1213	23339
Switching	7	317	648	5	327	7044	06	318	7234
DYH/YAH	-	-	-	1	22	680	-	-	-
Stg. Jam.	-	-	-	3	375	7763	3	51	608
Total	371	12526	311955	408	16049	494232	366	12059	265660
SEC/MEC	13	294	6421	25	706	1502	36	607	11451
ACC	17	401	6201	13	535	8952	20	644	8975
SEC/HGC	5	194	435	9	273	6524	12	847	17290
Total	35	890	17076	52	1517	30042	76	2170	40710
THL/ATM	15	431	10102	9	216	3715	10	611	22363
SAT MIF	-	-	-	-	-	-	-	-	-
TCN	-	-	-	1	10	1000	-	-	-
WTH	-	-	-	-	-	-	-	-	-
TCN	4	11	251	4	67	1415	-	-	-
ATCO	-	-	-	-	-	-	-	-	-
Total	4	11	251	4	67	1415	-	-	-

Summary for the period March-April 1951 paid in May 51 and April-May 51

Category	March-April 51 paid in May 51	March-April 51 No. of Officers Amount	March-April 51 No. of Staff Amount	April-May 51 paid in June 51	April-May 51 No. of Officers Amount	April-May 51 No. of Staff Amount
P.mar	66	1095	14392	86	2123	28623
Levee man	2	82	1650	5	107	1935
P.P.	96	3308	41285	80	2327	28339
Cat. v. v.	7	160	2134	7	207	3862
Boxbo	1	24	247	1	12	109
SS. man	1	12	100	2	100	1132
Lang. n	-	-	-	1	25	394
Whistly	1	24	228	-	-	-
W. mar	2	42	488	5	82	886
Cook	-	-	-	-	-	-
S. wale	2	12	117	-	-	-
Total	176	4759	60619	187	5071	65285

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M. David

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.

RA/M.A./O.A./T/A. (S21) 49893 in OA/S27/93

MR. I.B. Solvaya Applicant (s).

MR. M.S. Talwar Adv. for the
Petitioner (s).

Versus

Union of India & Ors. Respondent (s).

Adv. for the
Respondent (s).

SR NO.	DATE.	ORDERS,
1	30.9.93	Interim orders Reviewed Disposed of on 25.2.94

Filed by Mr. M. S. Trivedi
Learned Advocate for Petitioners
with second set & 1412 spares
copies - copy served/not served to
other side

30/9/93
Di. Dy. Registrar C.A.T.(J)
A'bad Bench

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH AHMEDABAD.

Misc. Application No. 521 of 1993.

IN Original Application No. 527 of 1993.

Shri I.B. Sarvaya & others.
Sr.T.C., Rajkot.

.....Applicants.

V/s.

Union of India & others.

.....Respondents.

The applicants above named humbly submits as
under :-

- (1). That the applicants abovenamed are working as Senior T.C., under the Divisional Railway Manager, D.R.M. Office, Rajkot. It is further stated that the applicants had filed one application under section 19 of A.T. Act. before this Hon'ble Tribunal, challenging the absorption of Tele. Graphs Signallraf of the W.Rly. in the cadre of T.C.
- (2). The applicants further states that the said application is registered as O.A. No. 527 of 1993 and the Hon'ble Tribunal was pleased to issue notice on 17.9.1993 in the said case. It is further stated that the Hon'ble Tribunal was further pleased to grant Ad-interim relief on that day, copy of the said order is annexed hereto and marked as Annexure : A1 to this application.
- (3). The applicants further states that in view of the Ad-interim Relief granted by the Hon'ble Tribunal on 17.9.1993 the respondent authority was directed to give ~~was~~ posting to the persons, & names in annexure : A5 dtd. 5.8.1993 as T.T.E., subject to further order by this

107 A ST 565793

II
30/9/93

In this matter
as none had filed
appearance & now
there is no practice &
accept- advance copy
of application, I had
served copy to
M.A. to other
side.

M.A.
30/9/93 Adhede

GR
Shri Parothal
Urgent Pl.

GR
30/9

: 2 :

Tribunal and on condition that their appointments may not be affected the seniority or promotion chances of these three applicants. It is significant note that the respondent authority are issued memorandum no. E.T., 839 5Vol-II dtd. 28.9.1993, shown as Anneuxre : A2 to this application.

(4). The applicants further states that vide above-referred memorandum dtd. 28.9.1993 the respondent authority had issued instructions regarding practice training and ~~fixing the employees fixing the employees~~ posting orders of the persons who are going to be absorbed in the cadre of T.C. and Sr. T.C. ~~XX~~ It is significant to note that the respondent authority had not mentioned ^{any thing} ~~about~~ the order of the Hon'ble Tribunal passed in O.A. No. 527/93. Not only that the applicants further states that the respondent authority had not waited for further orders of the Hon'ble Tribunal. The applicant further states that the applicants are the senior most employees in the cadre of Senior T.C. and due for the promotion of T.T.E. The applicants further states that after completion of the practice training the persons who are shown as No. 1 to 8 in memo. dtd. 28.9.1993 will get further postings as T.T.E. it will ~~xxxx~~ cause great hardships and will deprived the applicants their promotional chances. It is pertinent to note that the action on the part of the respondent authority will make great and irreparable loss to the applicants.

(5). The applicants further states that in view of the facts and circumstances of the case the action on part of the respondent authority to give posting to the ~~xxxxxxx~~

: 3 :

employees who are going to absop requires to be stayed. The applicants therefore pray as under :-

- (a). That the Hon'ble Tribunal further be pleased to direct the respondent authority/its subordinates by way of interim injunction not to give any posting orders to the persons whose names are shown in memorundam dtd. 28.9.1993 in pursuance of the said memorandam.
- (b). any other and further reliefs that the Hon'ble Tribunal may deem fit and proper may be given to the applicants;

Ahmedabad.
Dt. 30/9/1993.

Barvaiya

Mothakar

Blott

VERIFICATION.

We,

adult, occ.service, resident of Rajkot, do hereby verify and states that what is stated hereinabove are true and we have not suppressed any materials facts.

M.S. Trivedi
(M.S.Trivedi)
Advocate for the Applicants.

Barvaiya

Mothakar

Blott

Applicants.

Submitted.

Application is in order. May be
listed before Hon'ble Bench for necessary
order.

20/05
LBC

29/9/03
APM

SO/CJ)

DR/CJ) *Pearby*
30-9-03

DATE OFFICE REPORT

ORDER

17/93

Heard learned advocate Mr.M.S. Trivedi for the applicant. This application is filed by Ticket Collectors No.1 to 5 and 9 to 15 and also by Senior Ticket Collectors no.6,7, and 8 working in Rajkot Division, challenging the impugned order Annexure-A-5 dated August 5,1993 by which the surplus Telegraph Signallers are to be absorbed as shown in that list as T.T.E. The applicants have prayed to prosecute this application as a composite application as they have common cause of action. Mr.Trivedi, learned advocate for the applicants submitted that the immediate chances of promotion as T.T.E. would be for Sr.T.C. no.6,7, and 8. Hence, we permit these three applicants, Sr.T.C. to prosecute this application as composite application. The names of the other applicants may be deleted. Learned advocate for the applicants submits that in similar matter no. O.A.491/93 on 7/9/93, interim relief was given. We, therefore, give identical ad interim ex parte relief, pending admission. The notices may be issued to the respondents to file reply on admission as well as on ad interim relief which we grant as under.



3 copies

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2/10/93

5/17/93
17/15/93

If the respondents want to post the

persons, names in Annexure-A-5, dated

August 5, 1993 at T.T.E. they may do

subject to further orders by this Tribunal and
on condition that their appointment

may not be affected the seniority or

promotion chances of these three appli-

cants. Returnable by 1/10/93.

Direct service is permitted on

respondent no.2.

Call on 1/10/93.

(H.R. Kothaker)
Member (A)

(H.C. Shett)
Member (J)

568

by 1/10/93
by 1/10/93
COVE

by 1/10/93
by 1/10/93
by 1/10/93

30/9/93

A2

पश्चिम रेलवे
Western Railway.

मण्डल कार्यालय, राजकोट ।

6

No. ET.839/5 Vol.II

Divisional Office,
Rajkot.

साधन

Memorandum:

Dt/- 28.09.1993

Sub:- Absorption of Telegraph staff RJT division
विषय:- as TC/Sr.TC. तार कर्मचारी, राजकोट, टि.ए. क्लर्क और क.टि.ए. क्लर्क
के हस्तांतरण के संबंध में।

Ref:- PZTS UD's letter No.E/388/1/2/2 Part I
dt.21.9.93 and this office memo, no. even
dt.05.8.93.

The following Telegraph staff on completion of
initial training at UD from 07.8.93 to 21.09.93 are now
directed for one week practical training at the station
shown against each.

Sr. No.	Name S/Sr. (नाम)	Present Station.	Practical training at Station.
1.	S N Jani एन एन जानी	RJT राजकोट	SS RJT, स्टेशन-राजकोट
2.	H J Dholakia एन जे धोलकिया	RJT	SS RJT. "
3.	K D Shukla के.डी. शुक्ला	SUNR	SS SUNR, स्टेशन-सुनर
4.	V J Parmar वी.जे. पारमार	RJT राजकोट	SS RJT. " -राजकोट
5.	A K Dasadia ए.के. दासाडिया	RJT	SS RJT. " "
6.	N H Sheikh एन.एच. शेख	RJT	SS RJT. " "
7.	Ramesh Parmar रमेश पारमार	HXP हिरा	SS RJT. " "
8.	D D Jaleja डी.डी. जालेजा	HXP	SS RJT. " "

SSs-RJT SUNR should give them practical training
as TC/Sr.TC for one week and direct them to this office
on completion of training with detail report of training.

प्रति:-

Copy to:-

DAO RJT: S EPB(5): SSs-RJT SUNR HXP:

P Files: Memo File: DITT RJT: ZTT RJT:

SS/Cadre/Leave/Seniority-Clerks:

(K K. Mathakara)
for DCM (E) RJT.

कुं. मंवा.प्र(रज्जा)राजकोट ।

T.C.
M.R.
A.C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD BENCH

O.A. No.527/93

Shri a.g. Mevaliya & Ors.

.. Applicants

V/s

Union of India & Ors

.. Respondents

Preliminary reply by the respondents on ad interim relief

- 1 At outset the respondents states and submits that the application filed by more than one applicant deserves to be dismissed in limine.
- 2 This present application is clearly without exhausting alternative remedy by making a representation in department and therefore no cause has been arisen in favour of the applicants and therefore the application deserves to be dismissed. The averments made in the application which are not specifically admitted by the respondents are denied hereby.
- 3 The respondents states that averments made in para 5.1 are not correct and denied hereby. It is true that the applicatns are working in ticket checking branch They are eligible to get further promotion in this branch depending upon the vacancy position and their being found suitable in case of non-selection post or passing the selection in case of selection posts.
- 4 With reference to para 5.2 the averments made in the said para are not correct and denied hereby. The respondents states that it is true that some telegraphs signallers are required/declared surplus. As per the para 5 of GM(E)CCG's letter No.E(R&T)1186/27 Vol.V dated 23.5.1989(annexed to OA as Annexure 14) it is stated that it is not mandatory that juniormost employees should be rendered surplus at every time. However, options were called for from them and they were planned to be redeployed. So far the present case is concerned, the respondents states that a joint meeting was held on 2.6.1993 and in continuation of which another

Recd. am
ml
Adl
21/10/93

Filed in
Court by
Mr. K. S. Kulkarni
Ravi
21/10/93

meeting dated 2.7.93 was held with Divisional Secretaries of the Western Railway Mazdoor Sangh and Western Railway Employees Union, (recognised unions representing, the employees at the general), the same meeting was held by the Addl. Divisional Railway Manager Rajkot and in that meeting it was decided that 17 Telegraph Signallers will be adjusted in ASMs/Ticket Checking/Guard Branches. It was also decided that the seniority of these 17 people will be merged giving weightage of full seniority and therefore there is no substance in saying that same is effects badly in future chance of promotion to the petitioners.

5 With reference to para 3 the facts stated are correct and there is no dispute on factual point. But with reference to para 4 the averments made in the said para are not correct and denied hereby. It is not correct to say that at the time when option was asked, the option were not given for ticket checking branch but same was included when option were asked to give them to the surplus telegraph signallers.

6 With reference to para 5 & 6 the averments made in the said paras are not correct and denied hereby. So far para 5 is concerned, it is a repetition of earlier allegations but with reference to para 6 the respondents states that since there were more than 40 vacancies in ticket checking branch. It was decided to ^{done} deploy the surplus telegraph staff in ticket checking brnach and hence revised option were called and as per the extant directives, options are not taken now for the post of clerks. A copy of the revised option which were called is annexed hereto and marked as Ann. R-1 to this reply.

7 With reference to paras 7 and 8, the avernments made in the said paras are not correct and denied hereby. It is note correct that Railway Administration in an Arbitrary way has passed the order for ~~for~~ posting the surplus telegraph Signellers in Ticket checking branch without consulting the recognised unions. As such, the Respondents have already made it clear earlier the question does not arise because it was after consulting the recognised trade unions through its divisional Secretaries who represent the interest of Railway employees in general. The Respondents further state that so far as the avenue of promotion of the Telegraph Signellers is concerned, they are having their own avenue in their own branch and not in wireless, ASM, Guards etc. categories as contended by the applicants in this para. So far as the vacancies in ASM category and resultant O.T. payments are concerned, it is submitted that recently the ASM's posts have been filled in and now the O.T. payments have been reduced considerably. It is proposed to re-deploy ^{some of} the eligible fit employees as per the medical classification after passing the prescribed psychological examination in the category of ASM's branch. So far as the seniority of staff working in ticket checking branch is concerned, when the staff of telegraph branch are deployed in ticket ~~branch~~ checking branch they will get the seniority in terms of Rly. Board's letter No. E (NG)II-84/RE-1/10dt. 23-4-89 (para 3(~~xxx~~)(i)) they will get their full seniority by merging their seniority in the ticket checking cadre.

8 With reference to para 9, the respondents state that the avernments made in the said para are not correct and hereby denied. It may be mentioned here that a large number of posts have been newly sanctioned in the ticket checking branch ; whereas the activity in the telegraph branch has been reduced and hence the staff are to be rendered surplus ~~and~~ in ~~ticket checking~~ telegraph branch and therefore, they will be absorbed in ticket checking branch/Assistant Station Master branch and Guards categories. by protecting their seniority subject to their being found suitable and the same is admissible as per the extant rules and procedure. The Respondents are producing the said extant rules as marked as Annexure R-2 for perusal of this Hon'ble Tribunal.

9 So far the avernments made in para 10 are concerned, same is not correct and denied hereby. The judgment delivered by this Hon'ble Tribunal in the O.A. in question will not apply in the present case because the same has been decided on its own merit and facts and no principle has been laid down in that case and, therefore, the same could not be applied as the applicants have said here in this application. The Respondents reserve their right to make submission on this point at the time of hearing of this application.

10 With reference to para 11, 12 and 13, the Respondents state that the avernments made in the said para are not correct and denied hereby. But surplus staff are to be given seniority giving weightage of their service ~~at their~~ in the scales in which they were working. It may be mentioned here that entire telegraph branch is not abolished and, therefore, options ~~are~~^{were} invited from the staff working in their branch only and willing workers are re-deployed as per their options because the telgraph Signellers have their own avenue of promotion but ~~to~~ due to reducing the activity in this branch they are to be absored in Ticket checking/Guards/AM categories.

11 The Respondents state that surplus staff ~~will~~ of telegraph branch will be absorbed in the identical scales in which they ~~are~~^{were} working and they will progress in the new category depending upon the seniority, suitability and vacancy position.

12 The Respondents further state that there is no ban or restriction for changing the option. Moreover, as per Rly. Board's letter dt. 21-4-69 (para 3(i) when a small number of staff are rendered surplus, they can be adjusted with their full seniority, the entire cadre of Telegraph branch is 27 out of which 17 posts are identified to be made surplus. The staff working against the surplus posts are to be re-deployed in other branches, giving them due weightage of their seniority, so that natural justice can be given to them.

13 With reference to para 6, the averments made in the para are not correct and denied hereby. So far the order dated 5.8.1993 is in accordance with the rules and same can not be said arbitrary, illegal and unconstitutional. Because ultimately where any staff are being declared surplus, department has to absorb in other ^{Depts} division where vacancies are there and therefore in Ticket Checking Department, there were more than 40 vacancies, these staff were adjusted in said branch and therefore, it does not lie in the mouth of the petitioner to ^{make} huge and cry that they will be affected. But due to work the decision has been taken and therefore it does not credit the petitioners to say that out co-workers should be sent out for protecting their interest, but on the contrary they should be welcome as there was no alternative with the department but to give work where vacancies were there.

14 Looking to the above facts and circumstances of the case it is very clear that petitioners have not made out any-where that at what number they ~~were~~ are holding in seniority in their present post and how they will be affected by absorbing the other staff in their department without giving the facts and injury to them the protection granted to them by the Hon'ble Tribunal deserves to be taken away because ultimately it is the duty of the petitioner to satisfy the Hon'ble Tribunal that they have a promotion facing case not only this but balance of convenience is in their favour and irreparable loss which cannot be compensated in terms of money are also in their favour even otherwise if status quo order is to be granted in that case the petitioners will not get any benefits by keeping the genuine person out of job ultimately the railway administration who is running at the cost of public exchequer is sufferer as the person who are in the service who are utilising is nothing but wastage of

man power and Railway would not provide facility to people at large because ultimately Railway is an essential service for the public of India and therefore stay order granted deserves to be vacated forth with and if ultimately petitioners will succeed it is within the Hon'ble Tribunal's power to protect them but if petitioner will loose in that case the respondents request the Hon'ble Tribunal that public should not be made sufferer for any fault on their part because Railway is a public administration. The respondents reserves their right to file further reply as and when necessary in future in the interest of justice.

Ahmedabad

October 21, 1993

For and on behalf of
Union of India

[Signature]
21/10
Divisional Railway Manager (E)
Western Railway, RAJKOT.

[Signature]
(B.R.Kyada)
Advocate for the Respondents

VERIFICATION

I, K.K.Sudhakaran, Assistant Personal Officer (T) Western Railway, do hereby state that what is stated herein above is true to the best of my knowledge, information and belief and I believe the same to be true and I have not suppressed any material facts.

Ahmedabad.

October 21, 1993.

[Signature]
21/10
(K.K.Sudhakaran)
For Divisional Railway Manager (E)
Western Railway, Rajkot.

65

~~QA/TA/MA/RA/C.A.~~ No. 597/93 in 04/527/93

MR. M.K. Paul: & MR. M.S. Toivola

COUNSEL

VEREUS

U.O.I. 2 OLS.

RESPONDENT (S)

COUNSEL

$$28/2$$

MA St 66/93 IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD BENCH

M.A. No. 597 /93
in O.A. No. 527/93

D10
30/1/95

Shri. A.B. Devaliya,
Hindu, Adult, working as Senior
Ticket Collector,
Rajkot Junction. ... Applicant

Vs.

1. The Union of India,
Owning Western Railway,
Through: The General Manager,
Western Railway, Churchgate,
BOMBAY - 20.
2. The Divisional Railway Manager,
Western Railway, Kothi Compound,
RAJKOT. ... Respondents.

SUB: Application for joining necessary party.

9 hand served
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M.L.
Adm
110

The above named applicant most humbly and respectfully beg
to submit that the facts of the present application are as
under:-

1. That the present application ~~along~~ with the others has
filed O.A. No. 527/93 against the above referred 2 Respondents
with the specific prayer that 8 Telegraph Signallers those
who are declared surplus from their parent Branch may not be
absorbed in the Ticket Checking Branch which may affect the
future promotion of the Applicants.
2. The Hon. Tribunal after hearing of the Application, has
granted Interim Injunction on dated 15-9-93 restraining the
Respondents from absorbing them in the Ticket Checking Branch
affecting the Seniority and chances of promotion of the
applicant.
3. The Telegraph Signallers those who are declared surplus
are also necessary parties in this case. Hence, in the

Filed by M...
learned Advocate for Petitioners
with serial no. & ... N.L. spares
copies of ...
other files
Ms. ...
28.10.93
21st Floor

: 2 :

interest of justice, necessary permission may please be granted for joining all the 8 Telegraph Signallers also as the necessary party in the above referred petition.

4. The names of the proposed Respondents are as under:-

- (3) Shri. S.M. Jhani,
Telegraph Signaller, Railway Station, Rajkot.
- (4) Shri. H.J. Dholakia,
Telegraph Signaller, Railway Station, Rajkot.
- (5) Shri. K.D. Shukla,
Telegraph Signaller, Railway
Station, Surendranagar.
- (6) Shri. V.J. Parmar,
Telegraph Signaller, Rajkot.
- (7) Shri. A.K. Dasadia,
Telegraph Signaller, Rajkot.
- (8) Shri. N.H. Sheikh,
Telegraph Signaller, Rajkot.
- (9) Shri. D.B. Jadeja,
Telegraph Signaller, Hapa.
- (10) Shri. Ramesh Parmar,
Telegraph Signaller, Hapa.

5. In the interest of justice, necessary permission may please be granted for joining the above referred proposed Respondents as Respondent No.3 to 10 in the above referred case.

AHMEDABAD,

Dated:

Devaliya

: 3 :

VERIFICATION

I, the undersigned, Shri. A.B. Devaliya, Hindu, Adult, working as Senior Ticket Collector at Rajkot Junction do hereby verify that the contents from Para 1 to 5 is true to the best of my personal knowledge and that I have not suppressed any material facts.

AHMEDABAD,

Dated:

Devaliya

Identified by me:

(M.K. PAUL)
Advocate.

Submitted.

Application has been scrutinized and found to be in order. May be placed before Hon'ble Bench for necessary orders.

checked
29/10/93

DRG

DRG Pach
1-11-93

69

~~AHMED BAD~~

598/93

in 0A(S27/93

MR. M. K. Paul & MR. M. S. Tevdeel

VERSUS

RESPONDENT (S)

COUNSEL

28/2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH
AT AHMEDABAD.

MAst 619/93

M.A. No. 598/93
in O.A. No. 527/93

Shri. A.B. Devaliya,
Hindu, Adult, working as Head Ticket Collector,
Rajkot Junction.

... APPLICANT

Vs.

1. The Union of India,
Owning Western Railway,
Through: The General Manager,
Western Railway, Churchgate,
BOMBAY - 20.
2. The Divisional Railway Manager,
Western Railway, Kothi Compound,
RAJKOT.

... RESPONDENTS.

SUB: Application under Sec.20 Sub-sec.(vi)
of The Administrative Tribunals Act, 1985
for discovery and production of documents.

1. The above named applicant most humbly and respectfully
beg to submit that he is working from the date of appointment
in the Checking Branch and 8 Telegraph Signallers who are
declared surplus are absorbed in the Checking Branch affecting
the seniority and chances of promotion of the applicant,
hence he has challenged the same.

2. As per the Indian Railway Establishment Manual at Page
No. 17, the channel of promotion of Telegraph Signallers is to
the Asstt. Station Master, Station Master, Controllers, Yard
Masters and Transportation Inspectors. Instead of absorbing
the surplus Telegraph Signallers in their original Branch,
where they are entitled for their next promotion, the Railway
Administration has absorbed them in the Ticket Checking Branch
of the Applicant. The Applicant has come to know that there

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Filed by Mr. ...
Learned Advocate for Petitioners
with second set & ... N.I.2 spares
copies copy served/not served to
other side

12/1/93
By Registrar C.A.T.U
Ahmed Bench

71
is acute shortage of Asstt. Station Masters, Station Masters, Controllers, Yard Masters, and Transportation Inspectors ^{and wireless operators} in Rajkot Division as well as in the Western Railway.

3. It has also come to the notice of the Applicant that lakhs of rupees overtime is being done in the Rajkot Division as well as in the entire Western Railway in the above referred categories.

4. It is respectfully submitted that for deciding the controversy between the parties, it is very much necessary that the respondents may be directed to give the discovery and produce the following information with the documentary evidence in the above referred case before the hearing of the interim order:-

- (1) Sanctioned Strength for Asstt. Station Masters, Station Master, Controllers, Asstt. Yard Masters, Controllers, Yard Masters and Transportation Inspectors ^{and wireless operators} in Rajkot Division.
- (2) No. of posts lying vacant in Rajkot Division.
- (3) Figure of overtime, monthwise from 1-1-93 to 30-9-93 done in the Rajkot Division on the post of ASM and all other posts.
- (4) No. of sanctioned posts on Western Railway for Asstt. Station Masters, Controllers, Station Masters, Yard Masters, Asstt. Yard Masters, Transportation Inspectors & wireless operators

- (5) No. of posts vacant in the above referred categories in the Western Railway.
- (6) Figures of overtime done on the above referred posts in the Western Railway.

5. It is held by the following authorities of the Gujarat High Court and Supreme Court that if the relevant documents are required to be given discovery, necessary order may be passed before the hearing of the application:-

- (1) AIR 1972 Supreme Court, Page 2379
- (2) Gujarat Law Harold 1985, Page 504
- (3) 1991(1) Gujarat Law Harold, Page 145.
- (4) Gujarat Law Register 1992 (1), Page 310.

6. In the interest of justice before hearing the interim application, necessary order may please be passed directing the Respondents for giving the discovery and for production of the above referred important and relevant documents in the above referred case.

AHMEDABAD,

DATED:

x Aeraliya

VERIFICATION

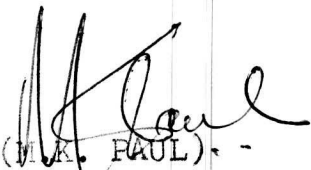
I, the undersigned, Shri. A.B. Devaliya, Hindu, Adult, working ~~xx~~ in the Railway Service at Rajkot as Head Ticket Collector at Rajkot do hereby verify that the contents from Para 1 to 6 are true to my personal knowledge and that I have not suppressed any material facts.

AHMEDABAD,

DATED:

x Devaliya

Drafted by:



(M.K. PAUL) -
Advocate,
16, Bhaktinagar Station Plot,
RAJKOT.

Submitted.

Application has been scrutinized and found to be in order. May be placed before Hon'ble Bench for necessary orders.

cc:claf
23/10/93


SECRET

DR/JS Prady
17/1/93

28/2

Filed by Mr. M.S. Trivedi
Learned Advocate for Petitioners
with second set & N/A SDates
copies copy served/not served to
other side

78

By Registrar C.A.T.U.
Additional Bench
Ahmedabad

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
AT AHMEDABAD

M. AND 599/93
in O.A. No. 527/93

Shri. A.B. Devaliya,
Hindu, Adult, working as
Head Ticket Collector
Rajkot Junction.

... APPLICANT

Vs.

1. The Union of India,
Owning Western Railway,
Through: The General Manager,
Western Railway, Churchgate,
BOMBAY - 20.
2. The Divisional Railway Manager,
Western Railway, Kothhi Compound,
RAJKOT.

... RESPONDENTS.

SUB: Application for production of
relevant documents.

1. The above named applicant most humbly and respectfully
beg to submit that the following documents are very much
relevant for deciding the controversy between the parties
regarding the channel of promotion and absorption of the
surplus staff. In the interest of justice, necessary permission
may please be granted for producing the following document
in the above referred O.A.:-

- (1) Indian Railway Establishment Manual Page no 19
 - (2) " " " " Page no 39
2. In the interest of justice, necessary permission for production
may please be granted and oblige.

AHMEDABAD,

Dated:

A. B. Devaliya

... 2

g had served
copy of the
M.D. to the
side
27/10 Dec

MAst 620/93

: 2 :

VERIFICATION

I, the undersigned, Shri. A.B. Devaliya, Hindu, Adult, working in the Railway Service at Rajkot as Head Ticket Collector at Rajkot do hereby verify that the contents from Para 1 to 2 are true to my personal knowledge and that I have not suppressed any material facts.

AHMEDABAD,

DATED:

Devaliya

Drafted by:

M.K. Paul
(M.K. PAUL)
Advocate,
16, Bhaktinagar Station Plot,
RAJKOT.

Submitted.

Application has been scrutinized and found to be in order. May be placed before Honble Bench for necessary orders.

SCJ

29/10/93

DE (S) Paul
1-11-93

Classes.—The classes included in this group and the normal channel of their promotion are as under:—

Guards Grade 'C'—(Rs. 80—170).

Guards Grade 'B'—(Rs. 100—185).

Guards Grade 'A'—(Rs. 150—225).

They are also eligible for promotion to posts of higher grade assistant station masters, assistant yard masters, yard masters, section controllers, etc.

Note.—Brakesmen are in the scale Rs. 50—80. The posts of brakesmen are filled by promotion from Class IV categories.

(iii) Traffic Apprentices

20. Recruitment.—Traffic apprentices are recruited to fill a maximum of 25% of annual vacancies for appointment in the categories of assistant inspectors, yard and station staff in the initial grade of Rs. 150—225 and section controllers.

Qualifications.—(a) *Age*—between 20 and 24 years.

(b) *Education*—a university degree.

Training.—Stipend Rs. 100—5—110. Candidates will be required to undergo training for a period of three years in the various area sheds and on the line at important stations, on running trains and in the yards, &c.

Channel of promotion.—They will be eligible for promotion to supervisory posts rising to Rs. 360—500.

(iv) Trains Clerks

21. Recruitment.—In the lowest grade of Rs. 60—130.

Qualifications.—(a) *Age*—between 18 and 25 years.

(b) *Education*—Matriculation or its equivalent examination.

Training.—The candidates will be required to undergo practical training for a period fixed by the railway administration.

Channel of promotion.—Trains clerks will be eligible for promotion to supervisory posts of yard staff and to a limited extent to posts of guards.

(viii) Wireless Operators (Rs. 80-220)

46. **Recruitment.**—Direct recruitment 33 1/3%; and by promotion of departmental candidates 66 2/3%. The departmental candidates may be from one of the following categories :—

- (i) Signallers,
- (ii) Wireless signal clerks, and
- (iii) Tele-printer operators.

Qualifications.—(a) *Age*—between 18 and 25 years.

(b) *Education*—Matriculation or its equivalent examination. Proficiency in Morse and wireless telegraphy at 20 words per minute. Must understand the general principles of electricity, the theory of radio telegraphy and practical adjustment.

Training.—The promoted candidates will be given three months' training. Direct recruits will be given one month's training to get acquainted with the operational procedure of wireless on railways during which period they will draw the minimum of the grade.

VIII. STORES DEPARTMENT

Store Keepers

47. The classes included in this group and the normal channel of their promotion are as under—

Clerks (Rs. 60—130)
|
Clerks (Rs. 80—220)
|
Ward Keepers (Rs. 150-225)
|
Assistant Store Keepers
Depot Store Keepers
(Rs. 200-300)
(Rs. 260-350)
(Rs. 300-400)
(Rs. 360-500)

Recruitment.—Initially as clerks.

Qualifications.—(a) *Age*—between 18 and 25 years.

(b) *Education*—Matriculation or its equivalent examination, knowledge of book-keeping an additional qualification.

2-11
Next date
2/11/93
Di. 1/11/93 Dy. Registrar C.A.T (J)
A'bad Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH,
AT AHMEDABAD.

O.A.No.527/93

Shri A.B.Devalia and others

... APPLICANTS

V/s.

The Union of India and others

... RESPONDENTS

COUNTER AFFIDAVIT.

1. I, the undersigned Ashok B. Devaliya, Hindu Adult, working as a Head Ticket Collector, Rajkot Junction do hereby declare on solemn affirmation as under:

2. That I have read the preliminary reply of the respondents My counter affidavit against the same is as under.

3. That I have filed three misc. application in the above refered O.A.No.527/93. (i) For joining the 8 surplus telegraphs signallers as necessary party in the above refered O.A.No.527/93 because instead of absorbing them in the branch in which they have their channel of promotion they are wrongly likely to be absorbed in the checking branch. (ii) For discovery and production of necessary relevant documents. (iii) Application for seeking permission for production of relevant documents.

4. It is respectfully submitted that before hearing of the application for the interim injunction the above refered 3 applications may please be decided first.

5. In reply to para no.2 it is not at all true that without exhausting any remedy applicants have filed the present O.A. Before filing the present petition the applicants had sent their representations ondt. 18.8.93, 21.8.93, 26.8.93 and 9.9.93. The same are produced at Annexure A-1,A-6,A-8,A-9,A-10.

6. In reply to para 3 it is submitted that applicants are entitled for the promotion on seniority cum suitability. If the surplus telegraph signallers are absorbed in the ticket checking branch, chances of promotion of all the applicants would be badly effected.

Contd.....2.



Subj to reply
2/11/93

7. In reply to para 4 it is submitted that as per GM(E) CCG Letter no.E(R&T)1136/27 Vol.1V dt.23.5.89 a guideline is issued as a policy matter to declare the junior most employee as surplus ~~staff is absorbed when the surplus~~ because when the surplus staff is absorbed in the new category the seniority & chances of promotion of other branch are not affected.

8. In the category of ASM there is heavy shortage, lakhs of rupees overtime is being done by the staff and it was decided in the meeting also that the surplus staff will be absorbed in the category of ASM but not a single surplus staff of Telegraph signaller is absorbed in the category of ASM. The surplus telegraph signallers had given their option on dt.8.7.92 for absorption as senior clerk, goods guard and there are many vacancies in the category of clerks but not a single surplus staff is absorbed in the category of senior clerk.

9. In reply to para 6 it is stated that with the mala fide intention the revised option was taken with the intention of bringing surplus staff in the checking branch only.

10. In reply to para 7 it is submitted that the channel of promotion from signallers is to ASM, wireless operator etc but the surplus signallers are not absorbed in the category of ASM and wireless operators.

11. In reply to para 8 it is submitted that whatever vacancies are available in the ticket checking branch it is the first right of the ticket checking staff to get the promotion in their original checking branch and the surplus telegraph signallers if required to be absorbed in the ticket checking branch can be utilised only on the bottom seniority of the ticket checking branch as per the decision in the case of C.K.Das V/s UOI reported in ATR 1993(1) 41 it is settled principles of law that any surplus staff when entering in to the new category they should be placed at the bottom seniority in the new branch seniority.

12. In reply to para 9 it is stated that the same is not correctly stated.

-:: 3 ::-

13. In reply to para 10,11,12,& 13 it is not true that surplus staff is to be given seniority and weightage of service. Only present pay of the surplus staff is to be protected but they can not be given seniority as per their length of service in the new branch as per the judgement of C.K.Das V/s. UOI AR 1993(114)

14. If the seniority is given to the surplus staff in the checking branch the surplus staff will become senior in ticket checking branch and higher posts of TTE, Senior TTE, Head TC and CTI will be acquired by the surplus staff and the chances of promotion of ticket checking staff will be very badly effected.

15. If the interim injunction is not continued the main petition of the applicants will become infructious and meaningless it will creat multiciplity of the proceedings.

16. I state the above true facts on oath.

RAJKOT

DATED: 30.10.93

Devaliya

DEPONENT

IDENTIFIED BY ME:

ADVOCATE.



Identified by Ashok B. Dorekha
Identified by Shri M. K. Paul
Advocate who is personally known
as on this 31st day of Oct 1993

P. N. Soneji
P. N. SONEJI
NOTARY

Page No. 479/93
Serial No. 1580
Receipt No. 1580
Date 31/10/93

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT ~~NEW DELHI~~ AHMEDABAD

DOCKET
~~INDEX~~ SHEET

CAUSE TITLE.....894 in 04/527/93.....OF 198 ☐.

**NAMES OF THE
PARTIES.....**

MR. Ashok Develga & Co. - MR. P.H. Pathak (Adv.)

VERSUS

W.O. 1. 2 Dec. - MR. B. R. Kyeeda (Adv.)

PART A B & C

SERIAL NO.	ORDERS DESCRIPTION OF DOCUMENTS	PAGE
	AMENDMENT	D/O - 23-12-93

mhet

7/3/93

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

MISC. APPLICATION NO. 694 OF 1993

IN

ORIGINAL APPLICATION NO. 527 OF 1993

D10
23-12-93

Ashok Devaria & ors.

..applicants

vs

Union of India & ors.

..respondents

Application for AmendmentMAY IT PLEASE THE HON'BLE TRIBUNAL :

* That after para 6.13 of the application, the following para may be allowed to be amended.

6.14. It is submitted that on closure of telegraph service, the employees working as Telegraph Signallers are declared as surplus and therefore the respondents have called for the options vide letter dt. 22.6.92. It is pertinent to note that the said options were given as per rules and in their own channel of promotion and relevant category. That once the employees have opted for the post of Asstt Station Master and Goods Guard etc., there is no justification available to the respondents to inform the employees concerned to review their options. It is important to note that so far Asstt Station Master is concerned, there are about 38-40 posts are available vacant and Goods Guard are concerned, more than 35 posts are available vacant. That the important aspect is, the administration is paying overtime to Asstt Station Masters, which runs to lacs of rupees. The contention of respondents in their reply about reduction in the overtime is far from truth.

I say that from January '93 the overtime paid to the Asstt Station Masters are as under;

..2/-

207 sent
dom B. Akram
for
23/12/93

Filed by Mr. ...
Learned Advocate for petitioners
with second set of N12
copies copy served/not served to
other side

R. H. Pathak

22-12-93
Dy Registrar C.A.T.D
A'bad Bench

January '93	2,32,802
Feb. '93	2,28,556
March '93	1,56,101
April '93	2,78,607
May '93	4,15,390
June '93	1,39,303
July '93	1,92,986
August '93	1,77,794
Sept. '93	1,24,736

The said overtime is continued in subsequent month also.

While for the post of TTE/TC, there is no question of any overtime. In these circumstances, it is a clear case of colourable exercise of power which is unconstitutional, being arbitrary, is violative of Art.14 & 16 of the Constitution of India.

6-15. It is further submitted that even as per the circular issued by the Railway Board, the surplus employees cannot be absorbed in the cadre of TTE/TC.

That any instruction issued by the Railway Board which is contrary to the provisions of rules are nullity and cannot be relied upon by the respondents.

It is important to note that if in any circumstances any employee give option for absorption in the other cadre, he will go in the bottom seniority and the question of merger of seniority is far from truth. That the issue is decided by the Hon'ble Supreme Court and even the Railway Board has also held that such an employee can only be absorbed on their willingness to accept the bottom seniority of direct recruitment cadre. Once the options were given by the employees in their own channel of promotion, there is no justification available to the respondents

: 3 :

to direct them to review their options. I called upon the respondents to produce the original file before the Hon'ble Tribunal to point out what are the justification and reason for reviewing the options, which is contrary to the provisions of Railway Establishment Manual. That if the respondents intend to absorb surplus employees, due to which seniority and promotional avenue of other employees are likely to be affected adversely, it is the duty of the respondents to give them an opportunity of being heard and only thereafter such an administrative action which adversely affect the right of no. of employees can be implemented. Here, the respondent authorities are fully aware that they are doing the unjust and illegal work of absorption of surplus staff working as Telegraph Signallers to the post of TTE/TC cadre which adversely affect the seniority and promotional avenue of applicant employees and therefore ignoring the representation made on behalf of the employees who are affected, issued the order of absorption in favour of surplus employees. The said ~~principle of natural justice and fair~~ action is contrary to law and in flagrant violation of principle of natural justice and fair play and the same is required to be quashed and set aside.

That after prayer clause 6, the following prayer may be allowed to be amended.

- 6.1) Be pleased to declare the impugned action on the part of the respondents directing the surplus Telegraph Signallers to review their options from the post of Asstt Station Master and Wireless Operator etc. for the post of TTE/TC, as arbitrary, illegal, unconstitutional, without justification and non application of mind, violative of Art.14 & 16 of the Constitution of India and be pleased to declare there is no justification available to the respondents to allow the employees concerned to

change their option and the subsequent order of respondents accepting the said options and absorbing the Telegraph Signallers to the post of TTE/TC vide letter dt. 5.8.93, as contrary to the provisions of Railway Establishment Manual and arbitrary and be pleased to quash and set aside it and direct the respondents to absorb the surplus staff as per their earlier options to the post of Asstt Station Master and Goods Guard.

- 6.2) Be pleased to declare that the surplus Telegraph Signallers seniority cannot be merged with the existing staff working as TTE which is a promotional post and the direct recruitment post i.e. T.C. and further declare that the surplus Telegraph Signallers on their options have to accept the bottom seniority of the direct recruitment cadre i.e. Ticket Collector post.
- 6.3) Be pleased to declare the impugned action of the respondents absorbing the surplus Telegraph Signallers to the post of TTE and TC, adversely affecting the seniority and right of consideration for promotion, to the applicants without giving them an opportunity of being heard, as violative of principle of natural justice and therefore be pleased to quash and set aside it.

The after prayer 7.2, the following prayer may be allowed to be amended.

- 7.3) Be pleased to restrain the respondents from giving any further effect to the order dated 5.8.93 and restrain from merging the seniority of the surplus staff with the cadre of TTE/TC and direct the respondents not to change the seniority of the applicant employees for all purposes, in their own cadre.

Date :- 22/12/19
Ahmedabad.

(P. W. Pathak)
Advocate for the applicant.

: 5 :

VERIFICATION

I, Shri ASHOK DEVARIA adult resident of
RAJKOT has gone through the application
and do hereby verify that the what is
stated above his true to my personal
knowledge and I believe the same to be
true and that I have not suppressed any
material facts.

Date : - 22/12/93

Ahmedabad.

Handwritten signature

C A B. Deva. (iya.)

Submitted.

Application has been scrutinized and found to
be in order. May be placed before Hon'ble Bench
for necessary order.

Handwritten signature
22/12/93

Handwritten signature 22-12-93
sq(cj)

02(cj) *Handwritten signature*
22-12-93