

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

O.A.NO. 537/93
T.A.NO.

DATE OF DECISION 11.8.1998

Madhav Nathabhai & Ors. Petitioners

Mr.G.I.Desai Advocate for the Petitioner [s]
Versus

Union of India & Ors. Respondent

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

CORAM

The Hon'ble Mr. V.Ramakrishnan : Vice Chairman

The Hon'ble Mr. P.C.Kannan : Member(J)

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ? *Me*
- 2, To be referred to the Reporter or not ? *Me*
- 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 ? *Me*

1. Madhav Nathabhai
Saloon Attendant, CWS Baroda
Railway Quarter No.335 D,
Near Railway Station,
Baroda.
2. James Dora Swami,
Krishna Krupa Society,
Baroda, Ex-Saloon Attendant,
CWS Baroda.
3. Bhupasingh Mansingh,
Saloon Attendant,
Railway Quarter No.423 H, Navayard,
Railway Colony,
Baroda.
4. Rameshbhai Hirabhai
Near Navyug Vidyalaya,
Parihar Housing Society,
Fatehgunj,
Baroda.
5. Parshotambhai Trikambhai
Ex-Saloon Attendant,
Alembic Road, Parshi Chawl,
Baroda.
6. Motibhai Prambhai
Ex Saloon Attendant,
Ramwadi, Navayard Bus Stand,
Baroda.
7. Ranchhodbhai Jesabhai
Saloon Attendant,
Harijan Vas, Near Railway Station,
8-A Cabin,
Baroda.
8. Amratlal Jivanlal,
Saloon Attendant,
Ambaji Bhavan,
Ahmedabad.
9. Muktaswami Chilan,
Saloon Attendant,
C/o.Head Train Examiner Office,
Pratapnagar, Baroda.

: petitioners

(Advocate: Mr.G.I.Desai)

Versus

1. Union of India,
Through: General Manager,
Western Railway, Churchgate,
Bombay.

2. Divisional Railway Manager,
Pratapnagar Colony,
Baroda.

: Respondents

(Advocate: Mr.N.S.Shevde)

: O R A L O R D E R :

O.A.537/93

Date:11.3.1998

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

The applicants who were working as Saloon Attendants in the Baroda Division have claimed that they should be given the benefit of upgradation of scale to the highly skilled grade, which had been given to some Saloon Attendants in Rajkot Division. They have also challenged the order of the DRM, Baroda dated 14.7.93 as at Annexure -A which has rejected the grant of upgraded scale to the applicants.

2. The Railway Board decided that as per the interim report of the Railway Workers Classification Tribunal 1976 regarding classification of skilled posts that in all establishments employing artisan staff on the Indian Railways, the distribution of skilled posts of artisans in the highly skilled Grade-I-highly skilled Grade-II and the Skilled grade will be in the ratio of 20:25:55. This was communicated by the Railway Board Circular dated 24.8.1978. On receipt of this, the DRM Rajkot proceeded to issue a memorandum dated 6.9.79 under which he accorded sanction to the upgradation of three posts of Saloon Attendants in the scale of

Highly Skilled Grade-I and four posts in the grade of Highly Skilled Grade-II. Subsequently, headquarters of the Western Railway held in September, 1981 that the action of the DRM was a mistake, as Saloon Attendants belong to non-artisan category. The DRM, Rajkot then issued a letter dated 18.3.82 bringing out this stand and cancelled the upgradation to Grade-I and Grade-II in respect of the categories of Saloon Attendants. Consequent upon such cancellation some of the applicants of Rajkot Division challenged this action. This case was transferred to the Tribunal on the constitution of the CAT and it was re-numbered as TA/1329/86 and disposed of vide order dated 15.6.1988. The TA was allowed and the Tribunal held that the petitioners therein were entitled to the pay-scale of the upgraded posts. Accordingly, DRM, Rajkot gave the benefit to such persons. The present applicants who are also Saloon Attendants in Baroda Division, had approached this Tribunal earlier in OA/286/90, claiming that the benefits given to their counter parts in Rajkot Division should also be extended to them and challenging the action of the Baroda Division in rejecting their claim for this benefit as per letter dated 12.12.89. The Tribunal held that it did not have sufficient materials to decide the issue but set aside the impugned order dated 12.12.89 passed by the DRM, Baroda and directed him to decide the representation of the applicants in the light of the ratio of the judgment in TA/1329/86. In compliance with this direction, the DRM, Baroda has issued the impugned order dated 14.7.93 as at Annexure-A where he had rejected

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the claim of the applicants. This is challenged in the present O.A..

3. Mr.Desai for the applicant submits that the stand of the DRM, Baroda in the impugned order that the benefit was confined only to the some Saloon Attendants in Rajkot Division and it was personal to them, cannot be sustained. He says that the Tribunal had nowhere stated that the judgment was personal to those applicant and therefore, it should be taken as a judgment in rem and it should apply to all the Saloon Attendants in respect of all the Divisions. He also submits that having recognised that the category of Saloon Attendant is entitled to the benefit of upgraded scale, it was not open to the DRM, Baroda to bring down the classification. Classification can be changed only by the Railway Board and not by the DRM. The learned counsel also refers to the para-8 of the direction of the Tribunal, while disposing of OA/286/90 which reads as follows:-

" The application is partly allowed. The impugned order dated 12th December, 1989 passed by the respondent No.2 is quashed and set aside and he is directed to decide the applications/representations of the applicants dated 30th November, 1989 and 24th November, 1989, which are referred to in the impugned order in the light of the ratio of the judgment in TA.1329/86 decided on 15th June, 1988 where the Tribunal has considered and decided the issue of promotion of the Saloon Attendants to the upgraded post of Saloon Attendants in the two different scales and then to inform the decision to the applicants without being observed that it was a decision

pertaining to Rajkot division. The respondent No.2 is directed to decide the said representations within three months from the receipt of the order and to inform the applicants about its decision. If the applicants or any of the applicant feels aggrieved by any order that may be passed by respondent No.2, they would be at liberty to approach this Tribunal according to law. Application is disposed of. No order as to costs."

4. Mr. Shevde does not agree that the ratio of the judgment in TA/1329/86 is that the Saloon Attendants belong to the artisan category and they are entitled to the upgraded scale. He submits that the Rajkot Division had issued an order upgrading the Saloon Attendants as artisans. The General Manager issued a communication in September, 1981, as at Annexure R/I stating that these were not artisan category and the benefit of upgradation could not be available to them. The order of the DRM Rajkot in issuing the sanction was a mistake. Mr. Shevde also states that the Tribunal had held in TA/1329/86 that on the issue of memorandum by the DRM, Rajkot, the Saloon Attendants had become entitled to the upgraded scale and the same benefits could not be withdrawn. He also says that Tribunal further held that any such withdrawal can only be prospective. Mr. Shevde contends that as far as the Baroda Division is concerned, no such sanction was issued treating them as artisan category and as such they are not entitled to the upgraded scales. The fact that a mistake was committed by one Division

cannot be a ground for repeating the same mistake in another Division. He therefore, says that the O.A. is without merits.

5. We have carefully considered the submissions of both sides. It is seen from TA/1329/86 that the Tribunal had gone on the basis that ~~in~~ the issue of the order of 6.9.1979 gave a right to the applicants therein to get the upgraded scale and it cannot be taken away. The Tribunal further held that any cancellation by the G.M. can only be prospective and cannot be retrospective and as such, according to the Tribunal, the right of the applicants for the upgradation cannot be adversely affected by such retrospective cancellation.

Mr. Desai had submitted that this judgment should be taken as a judgment in respect of Saloon Attendants in all Divisions and cannot be taken to be restricted only to the applicants in the TA. He refers in this connection to the decision of the Tribunalⁱⁿ OA/286/90, disposed of on 25.2.1993 that the ratio of the judgment in TA/1329/86 should be followed while considering the case of the present applicants. We find that in O.A./286/90, the Tribunal had directed that the ratio of the judgment in TA/1329/86, decided on 15.6.1988, should be kept in view while deciding/disposing of the case of the present applicants. It is clear from the direction of the Tribunal in TA/1329/86 that it had gone only on the basis that with the issue of Memorandum by the DRM Rajkot in September, 1979 those Saloon

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Attendants functioning during the period from September, 1979 till the date of its cancellation by the G.M. in September, 1981 had acquired a right to get the upgraded scale/^{The Tribunal did not} come to the finding that the Saloon Attendants as a class should be treated a artisan category for getting the benefits. It had in fact observed in para 5 that " The plea that Saloon Attendants' post is not an artisan post but belongs to non-artisan category is a plea which appeals to common sense." It has processed only on the basis that once the memorandum was issued by the DRM, Rajkot, which, according to the Tribunal had resulted in the applicants therein acquiring a right to get the upgraded scale, the same cannot be withdrawn and such cancellation can only be prospective. In the present case, no such memorandum was issued by the DRM, Baroda.


6. Mr.Desai also forcefully submits that Saloon Attendants had been given the benefit of a higher classification w.e.f. 6.9.1979, and such a classification cannot be changed later on by the G.M. and he is not competent to do so, as it is within the purview of the Railway Board. The Railway Board had never issued any sanction that the Saloon Attendants are artisan category and should be classified as highly skilled or skilled. Only the DRM, Rajkot issued a sanction on the assumption that they belong to artisan category which was held to be a mistake. Admittedly, it is not for the DRM to decide on classification of such category. In the present case,

no such order has been issued by the DRM, Baroda or by any competent authority classifying Saloon Attendants in the Baroda Division as belonging to artisan category who are to be classified as highly skilled or skilled.

The Tribunal had directed in OA/286/90 that the DRM, Baroda should keep in view the ratio of the judgment in TA/1329/86. The ratio of the judgment in the TA is that the right which had accrued on the issue of Memorandum which upgraded some posts of Saloon Attendants cannot be taken away retrospectively from such persons, and such cancellation can only have prospective effect and it cannot take away from those persons the right which had accrued to ^{them} be on the issue of the sanction dated 6.9.1979 by DRM, Rajkot. In the present case, there is no question of retrospective cancellation of the orders of upgradation of Saloon Attendants as no such order was issued by the DRM, Baroda in the first place. We, therefore, find that the reasons given by the impugned order of DRM, Baroda are quite tenable.

7. In the light of the above order, we do not find any merit in the O.A. and dismiss the same. No costs.


(P.C. Kannan)
Member(J)


(V. Ramakrishnan)
Vice Chairman