

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 574 OF 1993.

~~Ex-Axxos.~~

DATE OF DECISION 15-10-1993.

Chandrakant H. Pandya & Ors. Petitioner(s)

Mr. M.S. Trivedi, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C.Bhatt, Judicial Member.

The Hon'ble Mr. M.R.Kothakar, Admn. Member.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

1. Chandrakant H. Pandya,
2. Nathubhai
3. Bhikhabhai
4. Kishorbhai'
5. Kubersinh
6. Balkrishna
Ex. Staff Member of
Railway Staff Canteen,
Western Railway,
Bhavnagar Para.

..... Applicants.

(Advocate : Mr. M.S. Trivedi)

Versus.

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

2. Divisional Railway Manager,
Western Railway,
Bhavnagar Para.

3. Sr.Divl.Personnel Officer &
Controlling Officer of the
D.R.M. Office Staff Canteen,
Western Railway,
Bhavnagar Para.

..... Respondents.

JUDGMENT

O.A.No. 574 OF 1993

Date: 15-10-1993.

Per: Hon'ble Mr. R.C.Bhatt, Judicial Member.

The main question which arises at the time of admission in this application filed by the six applicants under section 19 of the Administrative Tribunals Act, 1985, is whether this Tribunal has jurisdiction under section 14 of the Administrative Tribunals Act, 1985 to entertain this application of Ex.employee of Railway Staff Canteen, D.R.M. Office, Bhavnagar Para. It is alleged in the application that initially they were engaged in the year

1980 and thereafter the screening committee of Casual Labours/Substitutes and Staff of Co-operative Canteens was held on August 1985 which drew a panel of the employees who were found suitable and the panel was prepared according to the seniority. It is alleged by the applicants that they were also empanelled in the said memo dated 11th September, 1985 vide Annexure A-1, that the applicants had completed more than 1200 days worked upto 1st September, 1984 and they were working in the said Canteen thereafter, but by a notice dated 9th October, 1987, the services of the applicants were terminated vide Annexure A-2. It is the case of the applicants that the action of the respondents Railway and the Senior Divisional Personnel Officer and Controlling Officer of the D.R.M. Office Staff Canteen, Western Railway was illegal and arbitrary. It is alleged in the application that formally the applicants had filed O.A. 167/87 before this Tribunal along with one M.A. 495/87, but the said application was dismissed for default vide Annexure A-3. It is alleged that recently the D.R.M Office Bhavnagar Para had give notice-cum-advertisement on 26th August, 1992 vide Annexure A-4 by which applications were invited for Staff Canteen of D.R.M Office, Bhavnagar Para. The applicants have also

referred in the application the instruction circulated by General Manager, Western Railway, Bombay vide letter dated 6th June, 1990 vide Annexure A-5 about "the implementation of the instructions of the Supreme Court's judgment regarding canteen employees non statutory recognised". The applicants have prayed that the Tribunal be pleased to declare the notice dated 9th October, 1987 issued by the respondent authority as illegal, null and void and that the action on the part of the respondents not treating the applicants as railway servants as per Railway Board's letter dated 18th May, 1990 be quashed and to direct the respondents to treat the applicants as Railway Servants from 1st April, 1990 and to give them all benefits.

2. We have perused the entire application and the documents produced with it. The applicants were the employees of Staff Canteen D.R.M office, Bhavnagar Para. The managing committee of this canteen unanimously decided that as it was not possible to run the canteen and as there was heavy debt in the canteen, it should be closed down from 9th October, 1987 after office hours. This notice Annexure A/2 very clearly shows that these applicants were the employees of a non-recognised private staff canteen. The instructions given by the Ministry

of Railways vide Annexure A-5 about the implementation of Supreme Court's judgment regarding Canteen employees- non statutory (recognised) are about the payments. of the Act However, the question is whether Section 14 empowers this Tribunal to exercise the jurisdiction and authority to deal with the question of these applicants who were ex employees of the Railway Staff Canteen which was closed from 9th October, 1987 as per the notice Ann.A/2 by the Managing Committee, by virtue of which these applicants were terminated.

3. Having gone through all the material on record we do not find any evidence that the applicants were appointed by/on behalf of the Union Government or Railways. Therefore, any question regarding the service matter of such persons which is unapproved and run by the employees of the Railways by local arrangement would not create any relationship of master and servant between the - Railways Union Government and the applicants. Similar question about the appointment of Teachers in the Secondary School by local arrangement made by officers of Ordinance Factory came up for consideration before the Hon'ble Supreme Court in the case of Union of India & Ors. V/s. Shri Tejram Parashramji Mombhate & Ors., JT 1991(2) S.C. 572 and it was held that the Tribunal had no jurisdiction, power authority to deal with the service matters of such employees as there was no

relationship of master and servants between the Central Government and such employees.

4. In this case also the applicants were the employees of the Railway Canteen managed locally and run by the Railway Staff and there is no relationship of master and servants between Union Government-Railways and these employees and therefore, this application can not be entertained by this Tribunal having no jurisdiction to deal with service matter of such employees. Hence the application is dismissed summarily at the admission stage.

M.R.Kolhatkar

(M.R.Kolhatkar)
Member (A)

R.C.Bhatt

(R.C.Bhatt)
Member (J)

vtc.

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

AHMEDABAD

Submitted :

C.A.T./Judicial Section.

Original Petition No

574

of

1993

Miscellaneous Petition No

of

Shri C. M. Pandya & others

Petitioner(s)

versus

Respondent (s)

This application has been submitted to the Tribunal by

Shri Mrs. Trivedi

Under Section 19 of the Administrative Tribunal Act, 1985.

It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunal Act, 1985 and Central Administrative

Tribunals (Procedure) Rules 1985. ~~Application for permission to file Joint application is also filed by Advocate~~
~~The application has been found in order and may be given to concerned for fixation of date.~~

The application has not been found in order for the reasons indicated in the check list. The applicant advocate may be asked to rectify the same within 14 days/draft letter is placed below for signature.

ASSTT. 1 English translation of A2 is not filed
2 Annexure A3 is not filed
3 Numbers A passes not done
An ~~versus~~ note is

S.O.O. (J) Recd from Hon'ble Court I do put up
the case on 12/8/93 if there is
no objection (Part - C)

D.R.O. (J) Here we may ask the
Advocate to remove the objection
first. Answer

10/8/93
As there are objections, put up on st. no.

Paul
10-8-93

D.R.O.

Sub into 1/Ced.

As per orders of Hon'ble Bench dated
24/9/93, the learned advocate has
complied with all office
objection's today. It appears, to
regular number may be given prior
to placing the matter before
Hon'ble Bench.

(a) 1/Ced/ SO. (J) ABM/PR
04/10/93 1-10-93

(a) 1/Ced/

D2(J) Patal
4-10-93

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD TRIBUNAL BENCH AHMEDABAD.

O.A. No. 574. of 1993.

Shri C.H. Pandya & Others.

.....Applicants.

V/s.

Union of India & others.

.....Respondents.

I N D E X

Sr.No. Particulars Pages.

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2. Copy of Memo dtd. 11-9-1985 11 to 12.
Annexure-A1.

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Annexure-A2.

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5. Copy of notice dtd. 26-8-92 17
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dtd. 1-6-90 Annexure-A6 21 to 22

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Annexure-A8

Ahmedabad.

Dt. 5/8/1993.

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

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH AHMEDABAD.

Original Application No. of 1993.

Shri C.H. Pandya & Others. Applicants.

V/s.

Union of India & Others Respondents.

APPLICATION FOR PERMISSION TO FILE
JOINT APPLICATION. - - - - -

The applicants abovenamed have filed one application u/s. 19 of A.T. Act. Challanging the illegal termination of the services of the applicants. It is further submitst that the services of the applicants were terminated b y the respondent authority vide notice dtd. 9-10-1981, and therefore, the present applicants have single cause of action and therefore, they have filed one application jointly before this Hon'ble Tribunal . It is further stated that the Hon'ble Tribunal be pleased to allow them to file joint application.

Dt. 5/8/1993.

Place:Ahmedabad.

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

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH AHMEDABAD.

O.A. No. of 1993.

Shri Chandrakant H. Pandya & Ors. ...
 Ex. Manager Railway Staff Canteen,
 D.R.M. Office,
 Bhavnagar & his co-workers. Applicants.

V/s.

1. Union of India
 Through the General Manager,
 Western Rly. Church gate,
 Bombay.
2. Divisional Railway Manager,
 Western Railway,
 Bhavnagar Para.
3. Sr. Div. Personnel Officer &
 Controlling Officer of the
 D.R.M. Office Staff Canteen,
 Western Railway,
 Bhavnagar Para. Respondents.

MST/SKC/Dav
 2/3

Application under section 19 of A.T.
 Act.

1. PARTICULARS OF APPLICANTS :

(A) Name of Applicant : 1. Chandrakant
 2. Nathubhai
 3. Bhikhhabhai
 4. Kishorebhai
 5. Kubersinh
 6. Balkrishna.

(B) Name of the Father
 of the applicant's 1. Hargovinddas
 2. Vithalbhai
 3. Manjibhai
 4. Udaisinh

5. Juvansinh

6.

(C) Designation & Particulars of : Ex-Staff member of
Office Rly. Staff Canteen.,
D.R.M. Office,
W. Rly.
Bhavnagar Para.

(D) Address of services of
all notices.

: Shri S.K. Dave.
Advocate.

1st floor, Tulsi
Chambers,
Pirchhalla Street,
Bhavnagar.

2. PARTICULARS OF RESPONDENTS : As stated in the title.

3. DETAILS OF IMPUGNED ORDER :-

1. Notice dtd. 9.10.87 - terminating the services of
the applicants by Secretary Staff Canteen Western
Railway, Bhavnagar Para.

2. Notice - cum - Advertisement dtd. 26-8-'92 issued
by D.R.M. Western Railway, B.V. P.

3. Notice dtd 10-9-'92.

4. JURISDICTION :

The applicants declare that the subject matter of
the order against which they want redressed is within the
jurisdiction of Tribunal.

5. LIMITATION :-

The applicants further declare that the application
is within the limitation prescribed in Sec. 21 of
Administrative Tribunal Act 1985.

6. FACTS OF THE CASE :-

The applicants humbly submit, that they are the

: 3 :

ex-employee of Railway Staff Canteen, D.R.M.,
office Bhavnagar. It is further stated that initially they were engaged in the year 1980. It is further stated that thereafter the screening committee of Casual Labours/ Substitutes and Staff of Co-operative Canteens was held on 19-8-'85, and the said committee had drawn a panel of the employees who were found suitable and the panel was prepared according to the seniority. It is pertinent to note that the names of the present applicants were also empanelled in the said memo dtd. 11-9-'85. Copy of the said memo is annexed hereto and marked as annexure- A1 to this application.

Annex. A1.

6.2 It is further stated that as it was mentioned in the above referred memo dtd.11-9-'85 that the said panel was drawn according to seniority i.e. total no. of days worked upto 1.9.'84. It is significant to note that all the applicants had completed more than ~~one~~ 1200 days at that time, and they were working in the said Canteen thereafter. The applicants further states that ~~but~~ thereafter due to the reasons which are best known to the respondents a notice dtd.9-10-'87 was placed on the notice board of the said Canteen,

.. 4 ...

made
and the said notice was effective from 9-10-'87 and by virtue of the said notice the services of the applicants were terminated abruptly and all of a sudden. Copy ~~is~~ of the said notice is annexed hereto and marked as Annexure -A2 to this application.

6.3 It is further stated that the action on the part of the respondents is not only illegal/ arbitrary, and against the principles of natural justice but in violation of various provisions of Industrial Disputes Act also. Thus it requires to be quash ~~ed~~ and set aside. Thereafter being aggrieved and dissatisfied by the said notice the present applicant had filed one application u/s. 19 of A.T. Act. Before this bench and the said application was registered as O.A. / 167 / '87.

6.4 It further stated that unfortunately for the applicants the said application and one Miscellaneous application No. 495/87 were not discussed in details and no hearing had taken place but the said applications were dismissed for defaults with the reason that the applicant's advocate was not present. Copy of the said order dtd. ~~is~~ annexed hereto and marked annexure -A3 to this application.

AB

6.5 The applicants further state that the above-referred order was passed in M.A. and O.A. was also informed to

the applicants verbally too late and the papers were returned to the applicants very late and hence the problem of delay in filing application for restoration is cropped. It is further stated that but recently the D.R.M., Office Bhavnagar, had given notice-~~name~~ cum-
-Advertisement on 26-8-'92 and by the said notice - Cum -
-Advertisement applications were invited for running the staff Canteen of D.R.M.'s Office, Bhavnagar Para. Copy of the said notice dtd. 26-8-'92 is annexed hereto and marked annexure- A4 to this applications.

6.6 The applicants further states that instructions regarding implementation of Supreme Court's Judgement regarding Canteen employees - non statutory (~~recognised~~) were issued by the respondent authority. It is further stated that the said instructions were circulated by G.M. Western Rly. Bombay, vide his letter dtd. 6-6-'90, shown at annexure - A5 to this applications. It is significant to note that in para 3 of the said letter it was specifically mentioned that Ministry of Railways have decided that the employees of the subsidised (recognised) non statutory Canteen should be treated as Railway Servants w.e.f. 1-4-'90 and the employee of ~~these~~ these Canteen may therefore be extended all benefits ~~are~~ ~~as~~ available to other Railway servants.

: 6 :

6.7 It is further stated that immediately thereafter the applicants had submitted one representation dtd.

1.6.'90 to the respondent no. 2 through their advocate. Copy of the said representation is shown as annexure - A6 to this application and the request was made to the respondent authority to treat them as Railway employees from 1-4-'90 and to give all consequential benefits, as they were screened and found suitable by the committee of the respondent authority in the year 1985. It is pertinent to note that no ~~any~~ ^{given} reply was by the authority to the said request of the applicants.

6.8 The applicants further states that thereafter reminder dtd. 6-7-'90 was also issued by the applicant ~~not~~ ^{not} 70/ but it was also ~~not~~ replied till this date. It is further stated that as mention hereinabove that notice-cum-Advertisement was issued on 26-8-'92 by the respondent authority inviting applications for running the Staff Canteen of D.R.M.m Office Bhavnagar and therefore against the applicants had given one notice to the respondent authority ~~to~~ through their advocate on 10-9-'92. Copy of the said notice dtd. 10-9-'92 hereto and marked as annexure - A7 to this application.

6.9 It is further stated that it was mentioned in the said notice that applicants had completed more

: 7 :

than 1350 days service in Western Railway Staff Canteen and were duly screened and found suitable and empanelled in the year 1985 and are entitled / eligible for benefit as per guidelines issued vide letter dtd-18-5-'90. It is pertinent to note that no ~~any~~ reply / response was given by the respondent authority till this date.

Now no any other and further efficacious remedy left for the applicants except to approach this Hon'ble Tribunal by filing ~~this~~ application for their grievances.

6.10 The applicants further states that ~~ex~~ action on the part of the respondents terminating the services of the applicants abruptly and all of a sudden is illegal and requires to be quash^{ed} and set aside. Not only that notice dtd. 9-10-'87, issued by the respondent authority, is illegal and null and void and in violation of various provisions of I.D. Act. More over the action on the part of the respondents not treating the applicants ~~as~~ Railway Servants and extending all benefits as per Supreme Court's direction and guidelines issued by the Railway Board vide their letter dtd- 18-5-'90 ~~is~~ also illegal, arbitrary requires to be quash^{ed} and set aside. It is further stated that notice - cum - Advertisement dtd-

26-8-'92 issued by the respondent authority ~~it~~ self is illegal and not only that ~~it~~ is in violation of provisions of Article 14 and 16 of the Constitution of India and thus depriving the applicants their legitimate ~~rights~~ to get employment and absorption in Railway Administration

7. RELIEFS PRAYED FOR :

Looking to the facts and circumstances of the case the applicant therefore prays as under :-

1. That the Hon'ble Tribunal be pleased to Admit this application,
2. that the Hon'ble Tribunal be pleased to declare the notice dtd- 9-10-'87 issued by the respondent authority ~~is~~ illegal/ null and void,
3. that the Hon'ble Tribunal further be pleased to quash and set aside action on the part of the respondents not treating the applicants as Railway Servants as per Railway Board's letter dtd. 18-5-'90 and further be pleased to direct the respondent authority/its subordinate to treat the applicants as Railway Servants from 1-4-'90 and further be pleased to direct~~s~~ to give them all consequential benefits,

: 9 :

4. any other and further relief that the Hon'ble Tribunal may deem fit may be given to the applicants.

8. INTERIM RELIEF :

Pending hearing and final disposal of this application the respondents and its subordinates may be restrained from accepting and taking further actions in pursuance of the notice -cum-Advertisement dtd- 26-8-'92, & and to allow other units without absolving the applicants in Rly. staff canteen work

9. DETAILS OF REMEDY EXHAUSTED :

The applicants further declares that they have availed all the legal remedies available to ~~him~~ them as per rules.

10. MATTER NOT PENDING :

The applicants further declares that the subject matter of the present application is not pending before any judicial forums and the applicants have not filed any application before any branches of the Tribunal for the said subject matter.

11. DETAILS OF XXXXXXXX I.P.O. :

Sl. No. 924675

7-578193

G. H. C.

Same
Shivaji

Advocate

12.

DETAILS OF ANNEXURES.

The applicant states that the documents on which the applicant rely are annexed hereto and separate Index enclosed herewith.

Date : 5/8/1993.

Place : Ahmedabad.

VERIFICATION.

We, Chandrakant H. Pandya, Nathubhai, Bhikhhabhai Juvansingh, adults occ. Ex-Railway Employees, residents of Bhavnagar do hereby verify in states that what is stated are true and we have not suppressed any material facts.

Dt. 5/8/1993.

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



1. *Chandrakant H. Pandya*
2. *Ganeshbhai*
3. *423*
4. *5272*
5. *5272*
6. *38212*

Western Railway.

No. E/C&W/891/4/Scoring DRM's Office, - BVP,
Vol.II. Dt. 11-9-1985.

1 - MEMORANDUM - 1

**Subs:- Employment of Casual Labours/Substs. -
Screening N.G. Staff of Cl.IV Mechanical
(C&W)- Department -**

The scrapping of Casual Labours/Substitutes and staff of Co-operative/Contract was held at BVC on dt.19-8-85 and the following Casual Labours / Substitutes who have been found suitable by the Committee, are placed on panel for regular absorption as Cleaner/Khalasi and S/Wala in So. No. 196-232 (R) in O&W Doptt as indicated against each.

2) The names have been arranged according to seniority based on aggregate services i.e. total No. of days worked up upto 11-7-1974. In case of equal No. of days, the candidate who was initially appointed/engaged earlier will rank senior to the one who is appointed/engaged initially later on, in case the initial date of appointment also happens to be the same then the order on which he will rank senior to the younger one in age. In the case of staff of Contingent/Operative the names are placed at the bottom after Substitutes.

In case of the persons placed on panel their regular orders will follow according to vacancy and seniority subject to verification of character and antecedents and passing requisite medical examination.

St. No.	Line No.	Station	Date of Birth	Date of first application	Date of last application
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$$BVC = BIV W^{+ +}$$

Sr. No.	Name	Category	Date of Birth	Date of Death	Age
1	Naren Baboo	BVC	7-1-59	27-6-77	2888
2	Ramjish Bhikha	BVC	22-4-51	21-3-72	2101
3	Gaurang Yandukant.	BVC	8-12-59	15-6-78	2074
4	Hansukh Baboo	BVC	5-5-60	17-10-78	18-35
5	Narendra D/o	MHV	27-8-55	28-10-80	1794
6	Harish J.	BVC	7-12-60	31-7-80	1893
7	Shantilal S.	BVC	2-3-55	19-8-79	1880
8	Jorsong B.	BVC	20-14-52	31-7-79	1242
9	Bhaskar M.	MHV	26-7-1	28-10-80	1241
10	Batuk J. Va.	BVC	15-6-62	31-7-80	461

Chntd., 2nd., Page.

Co-operative Stores BVP & JIR & Staff Canteen BVP/VC,
BVC M.V. Unit.

S/SHRI

1. Suresh Vratlal	Co-op			
	BVP	20-2-50	11-8-78	2088
2. H. B. Jani	"	17-11-57	1-2-79	1650

JIR UNIT

1. Mahendra Vartlal	Co-op			
	JIR	3-2-61	1-12-79	1744
2. Ashok B. Chubhai	"	1-6-55	1-2-80	1655
3. Satish Vansukhlaal	"	2-7-61	1-6-80	1563

B.V.P.M.D. UNIT

Staff Canteen

1. Natubhai Vithal	BVP	12-1-57	1-12-80	1376
2. Bhikha Nanji	"	6-8-57	1-12-80	1376
3. Kishor Udeising	"	22-2-50	1-12-80	1376
4. Balkrishna N. Pandya	"	27-2-50	1-12-80	1376
5. Chandrakant N. Pandya	"	27-5-50	1-12-80	1376
6. Kuberji Juvansing	"	3-3-62	1-12-80	1376

Copy to:-

C.P.R. BVC D.A.O. BVP J.M.Y. M.J. B.M.D. J.M.V.
C.S. (S) 33 CLERK M.B.C.R.V.D. FILE 30 FILE
P.R.T.V. CONCERNED DIV. SEC'D. R.V.S. R.V. B.V.
PRESIDENT M. R.V. CO. Q.M.R.C.V. T.D.M. B.V.P. J.I.R.
M.P.P.R. OF STAFF CANTEEN B.V.P. C.V.I. B.V.P.

Tricessor
Advocate

- નોટીસ બોર્ડ કોષ્ટ -

- નોટીસ બોર્ડ ઉપર -

12
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માટી " ૨૦૧૫ કે-૮૧૮ " ડા. નાર. બેમ. બોફીલ પાલભાઈ ૫૨૧
૨૦૧૫માર્ચનાં અ બેઠાનો રહ્યો છો ૧ : બેદ્કાટ બેદ. પેન્ચા ૨ । શ્રી નદેનાથ
બીજો ૩ । શ્રી પદ્મિલા ૫નું ૪ । શ્રી કુલેરચીં કુલાનાનીં ૫ । શ્રી શોર્ટ્યુદ
લેન્થ્યારીં નથી ૬ । શ્રી પાલભાઈ બેદ. પેન્ચા ને જ્ઞાપનામાં બાબે ૬ કે,
નોટીસ બોર્ડીની સાથેનું નકલી કર્યું હતું કેન્દ્રિન ચાહાણી લક્ષાય નેથું
નથી. કેન્દ્રિન નથી નકલી નથી કુલાનાનાં બેરદેશચાલાનું નકલી કર્યું
અનુભાવ રહ્યો નથી જીની બોફીલ ચાલાય નેથું નકલી લોછ તેમજ દેખું થાં જો
૨૦૧૫ કે-૮૧૮ માટીની પેન્ચે કેન્દ્રિન ૧૦-૧૦-૮૮ થી બોફીલ ચાલાય પાટ વેપ કર્યાના
નિયમ કરવામાં બાબે ૬. શ્રી નથી ઉપરોક્ત બેદ કાયારોબોને માટીની
બોફીલ સમય નાં કુલ કરવામાં બાબે ૬. શ્રી નથી અધ્યાત્મિક નેમને પારા-
પોરલબસનો ધારો કલાનાનાં ૧૦-૧૦-૮૮-૧૧ ૨૧૦ રૂપનાં ૪૦૦ થી ૫૦૦
૨૦૧૫ના સુધીમાં નેલાની કેદો ને નેત્યારુ રૂપનાનાં બાબે.

૨૦૧૫માર્ચ,

૧૧૧૮-૧૦-૮૮ ✓

નાર. નાર. નાર. :-

સ. કે. બોર્ડ

Staff-Controller BVP.

- ૧ । શ્રી બેદ્કાટ બેદું પણા
- ૨ । શ્રી નદેનાથ બીજો
- ૩ । શ્રી કુલેરચીં કુલાનાનીં
- ૪ । શ્રી કુલેરચીં કુલાનાનીં
- ૫ । શ્રી શોર્ટ્યુદ્ધારીં લેન્થ્યારીં
- ૬ । શ્રી પાલભાઈ બેદ
- ૭ । શ્રી નારા. નાર. નાર. નાર. : કે-૮ : નારીયુર : ૫૦૦/૦૬૫
- ૮ । શ્રી બોફીલ બોફીલ નારીન, ડા. નાર. બેમ. બોફીલ - માલભાઈ
- ૯ । શ્રી પેન્ચે નાર. નાર.
- ૧૦ । શ્રી પેન્ચે નાર. નાર.

નાર. નાર. નાર. નાર. -

નાર. -

નાર. -

૧૫

ANNEXURE - A2

P/H 13 A

Notice of closer.

To be placed on notice board.

It is hereby informed to all employees of staff Canteen D.R.M Office, Bhavnagar Para, Bhavnagar, names Shri Chandrakant S. Pandya, Natubhai Vithal, Bhikha Nanji, Kubersinh Jawanji, Kishorsinh Udaysinh, Balkrishana N. Pandya that it is unanimously decided by the Managing Committee that it is not possible to run the Canteen further. As you all are aware that it was decided to staff the Canteen on the basis of "no profit no loss" but at present the Canteen is working in loss and therefore it is not possible to continue the said Canteen further economically. Moreover, at present there is heavy debt in the Canteen therefore it is decided to close the Canteen from today i.e. 9-10-1987 after office hours and therefore all above mentioned are also terminated after office hours today. Moreover, all employees are hereby informed to collect their admissible dues on 12-10-1987 between 4-00 to 6-00 p.m. which are calculated and kept ready.

Dt. 9/10-87.

Sd/-

J.Y. Joshi
Secretary.
Staff Canteen, BVP.

Copy to :-

True copy
12/10/93

ABM

- 1) Suresh Amratlal Kanada
- 2) Madhusudan M. Jani
- 3) Natubhai Vithalbhai Dharajia
- 4) Bhikha Nanji
- 5) Kishore Udaysing Barot
- 6) Balkrishna N. Pandya
- 7) Chandrakant H. Pandya
- 8) Kuberdas Juvansing Barot

All C/o. Applicant No.1
Suresh Amratlal Kanada
Tolat, Western Railway
Consumers Co-op. Society,
Bhavnagar Para,
Bhavnagar.

.... Applicants.

(Advocate: Mr. R.J. Oza)

Versus.

- 1) Union of India
(Notice to be served through:
The General Manager,
Western Railway, Churchgate,
Bombay).
- 2) The Divisional Railway Manager,
Bhavnagar Para,
Western Railway,
Bhavnagar.

.... Respondents.

(Advocate: Mr. R.M. Vin)

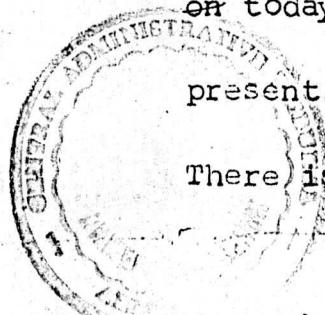
ORAL ORDER

O.A. 167/1987

Date: 22-3-1991.

Per: Hon'ble Mr. M.M. Singh, Administrative Member.

In this Original Application filed in 1987, when the matter was called on 8.2.1991 applicants' counsel requested for an adjournment which was allowed. When the matter was again listed on 22.2.1991 learned counsel for the applicants filed a sick note, The matter was adjourned by a week. When the matter called on again on 11.3.1991 applicants and counsel were not present. A last adjournment to enable applicants and counsel to remain present was given. The matter called



on today, again the applicants and counsel were not

present. Application is dismissed for default.

There is no order as to costs.

Sd/-

(R.C. Bhatt)

Judicial Member

Sd/-

(M.M. Singh)

Administrative Member.

Prepared by : *Amal*
Compared by : *Amal* 13/08/93.

TRUE COPY

ttc.

Amal
Section Officer (J) 13/08/93
Gujarat Administrative Tribunal
Ahmedabad Bench

C. A. I.

Ahmedabad Bench

- (a) Serial Number of the Application 174/93
- (b) Name of the Applicant Mr. M.S. Trivedi
- (c) Date of presentation of application for copy 05/08/93.
- (d) Number of Pages Three
- (e) Copying fee charged Rs. 10/-
- (f) Date of receipt of deposit of copy 05/08/93.
- (g) Date of receipt of copying fee
- (h) Urgent fee charged if any Rs. 10/-
- (i) Date of receipt of record for copy
- (j) Date of preparation of copy 13/08/93
- (k) Date of Delivery of copy to the applicant 20/08/93

T. L.
(Sd) u/1015)

16
M.A./495/87

Coram : Hon'ble Mr. J.N.Murthy : Judicial Member

Hon'ble Mr. M.M.Singh : Administrative Member

27/8/1990

Neither the petitioner nor his counsel present.

The case is dismissed for default.

O.A./167/87



The respondents are directed to file their reply within four weeks and the applicant may file rejoinder if any within two weeks thereafter. Post the case for final hearing after completion of the records.

-sd-

(M.M.Singh)
Administrative Member

-sd-
(J.N.Murthy)
Judicial Member

Prepared by : *Shonel*
Compared by : *Shonel* 10/9/93
TRUE COPY

a.a.b.

Bhajan
Section Officer (J)
Central Administrative Tribunal
Ahmedabad Bench

C. A. T.
Ahmedabad Bench

(a) Serial Number of the Application 126/83
(b) Name of the Applicant *MR. M. S. Patel, Advocate*
(c) Date of presentation of application for copy 10/8/93
(d) Number of Pages *One*
(e) Copying fee charged *Rs 10/- 286/-*
(f) Date of calling for deposit of copying fee *25/8/93*
(g) Date of deposit of copying fee *25/8/93*
(h) Urgent fee charged if any *Yes*
(i) Date of receipt of record for copy *5/8/93*
(j) Date of preparation of copy *10/8/93*
(k) Date of Delivery of copy to *the* applicant. *10/8/93.*

T.C

Shonel
4/10/93

WESTERN RAILWAY

D.R.M.'s Office, Bhavnagar Para,

No. EP/254/2/1.

Date : 26/8/92

"NOTICE INVITING OFFERS"

Divisional Railway Manager (Estt) Western Railway, Bhavnagar Para (364003) for and on behalf of President of India invites separate application for the following offer so as to reach this office up to 14/9/1992.

Sr. No.	Name of contract	Earnest Money
1.	Offer for running the staff canteen DRM's Office, Bhavnagar Para.	Rs. 2500/-

The form of offer costing Rs.10/- will be available from Chief Welfare Inspector on production of crossed draft in the name of Divisional Railway Manager (Estt) Bhavnagar Para, or money receipt for the said amount towards the cost of form paid to the Divisional Chief Cashier, Bhavnagar Para, or any other Station Superintendent of Western Railway. This amount is not refundable under any circumstances.

The form of offer will be issued upto 10/09/1992.

Sd/- (Illigible)
Divisional Railway Manager,
(Estt)
Bhavnagar Para

DAH
PLS
Tomey
Mita
D.S

WESTERN RAILWAY

PS. NO. 98/90.

Headquarter Office,
Churchgate, Bombay-20.

NO. E (WEL) 254/0 Vol. VI.

Dated: 6/6/90.

The DRD (E) BCT/BRC/RPT/RPT/MLI/MLP/RPT/MLP.
The DCCL-MX/SBI/PZTS-UD.
Manager-GLO-Canteen CCG.
General Secretary, WREU-GTR/WRMS-BCT
Secretary-WREU/WRMS, WREU (A/Cs)/WRMS (A/Cs) CCG
Secretary, GLO Canteen-CCG.

Sub:- C A N T E E N S

A copy of Board's letter NO. E(W) 97. N1-7 (II) dated 18.5.90 is sent herewith for information and necessary action. Board's letters referred to therein were circulated as under:-

Board's letter No. & date	Circulated under this office letter No. & date.
1. E (W) 83CN1-8 dated 13.5.83.	OSD (IR)'s DO. letter NO. E (WEL) 254/0 vol. V dated 23.5.83.
2. -do- dated 19.5.83	E (WEL) 254/0 Vol. V dated 30.5.83.
3. -do- dated 10.6.83	The contents are the same as per this office DO. letter No. E (WEL) 254/0 Vol. V dated 30.5.83.
4. -do- dated 18.8.83	E (WEL) 254/0 Vol. V dated 31.8.83.
5. -do- dated 17.9.83	E (WEL) 254/0 Vol. V dated 28.9.83
6. E (W) 83CN1-8/A dated 27.7.87.	E (WEL) 254/0 Vol. VI dated 11.8.87.

Board's instructions may be implemented with due care and scrutiny in consultation with your Associated Accounts Officer.

Please ensure strict compliance of the instructions contained in the Board's letter.

Hindi version is also enclosed.

Please acknowledge receipt.

Encl: As above.



Shall
For General Manager (E).

112/-

Patil
Patil
Patil

Copy of Railway Board's letter NO.E(WEL)90CN1-7/(II)dated 18.5.1990. addressed to General Managers of Indian Railways and others.

Sub:- Implementation of Supreme Court Judgement regarding Canteen Employees - Non-Statutory (re-cognised).

In compliance with the interim direction of the Supreme Court dated 22.4.83 in CMP Nos. 10191-93/83 (in W.P.Nos-2275-86/82-MMR Khan and others Vs. UOI and others and W.P.NO.9084/81-Subir Kumar Bagchi and others Vs. UOI & Others) the employees of the subsidised (recognised) non-statutory canteens are being presently paid at the same rate and at the same basis on which employees of statutory canteens are being paid. The instructions contained in this Ministry's letter NO.E(W)83CN1-8 dated 13.5.83 as clarified/modified vide their letters of same number dated 19.5.83, 10.6.83, 18.8.83 and 17.9.83 refer. The Railway Services (Revised Pay) Rules, 1986 have also been made applicable to the employees of these canteens w.e.f. 1.1.86 vide this Ministry's letter NO.E(W)83CN1-8/A dated 27.7.87.

2. The Supreme Court in their Judgement delivered on 27.2.90 in Writ Petition Nos. 2275-86 of 1982-MMR Khan & others Vs.UOI & Others alongwith other connected WPs/SIP have since passed the final orders.

3. Consequent upon the said Judgement of the Supreme Court, the Ministry of Railways have decided that the employees of the subsidised (recognised) non-statutory canteens should be treated as Railway Servants with effect from 1.4.90. The employees of these canteen may, therefore, be extended all benefits as are available to other Railway Servants of comparable status from 1.4.90 except the SRPF, Railway Pension Rules and Group Insurance Scheme in respect of which a separate communication will follow. They will also be subject to same service conditions regarding recruitment, promotion, etc. as are applicable to other Railway Servants of comparable status.

4. The instructions as clarified/modified from time to time in respect of employees of statutory canteens as also in respect of 11 Delhi based non-statutory canteens deemed as Railway servants w.e.f. 22.10.80, will equally apply to the employees of the subsidised (recognised) non-statutory canteens w.e.f. 1.4.90.

5. These instructions may be implemented with due scrutiny in consultation with your FA & CAOs. It may be noted in this connection that in the same judgement as referred to in para 2 above the prayer of employees of a few non-recognised (unsubsidised) non-statutory canteens which have sprung up, without the approval of the Railway Board as required by the provisions in Chapter XXVIII of the Indian Railway Establishment

P/ 20

Manual and in some cases with the approval and patronage of local authorities, for grant of status of railway servants, has been dismissed. Due care may, therefore, be taken to ensure that the benefit of these instructions accrues only to the employees of the subsidised (recognised) non-statutory canteens set up with the approval of the Railway Board.

6. It is further clarified that assessment of man power requirement in the non-statutory (subsidised) recognised canteens should be done based on functional requirement and the same should be kept to the bare minimum. Any additions to the present strength which might become necessary in future will have to be processed in terms of the extant ban orders.

7. Additional funds, if any, required may be asked for in the Revised Estimates for the year 1990-91.

8. The above orders have the sanction of the PR issues with the concurrence of the Finance Directorate of the Ministry of Railways.

.....

Copy to: FA & CAO-COG.

Sr.DAOs-BCT/BRC/RTM.

DAOs-KPT/ AII/JP/RJT/BVP

Sr.DPOs-BCT/RTM

DPOs-BRC/KPT/AII/JP/RJT/BVP. for information and necessary action.

/SUB/
6.6.90.

True JV
(M) Te
(M) Jdr

Personal Attention

ASHOK AKHILYANI,
ADVOCATE,
Vora Bazar, Madhav Chambers,
BHAVNAGAR 364-001, Dt. 1-6-1990.

To,
Honourable,
Mr. H.H. Lal,
Divisional Railway Manager,
Bhavnagar Division,
BHAVNAGAR PARA.

Subject: Employees of Non-Statutory Co-Operative
Canteen to be absorbed in group 'D'
Railway Service.

Sir,

I have the honour to inform accordingly on the subject mentioned above that much discussion and correspondence have taken place from both ^{the} sides. My ~~last~~ letter addressed to you on 22.1.1990 fully reveals that the Railway Administration has decided as a matter of policy that the employees of all the canteens either statutory or non-statutory be placed in category of class IV employees. My clients referred in previous notices were successfully screened.

Some further more positive developments have taken place pertaining to the subject matter in dispute. The Honourable Supreme Court of India while delivering the judgement in Writ petition nos 2275-86/87 of employees working in statutory canteen, non statutory recognised canteen and un-recognised non-statutory canteens that the workers engaged in the statutory canteens as well as those engaged in non-statutory recognised canteen in Railway Establishment are railway employees and they are entitled to be treated as such. The Railway Board has already treated the employees of all statutory and eleven Delhi based non-statutory recognised canteens as railway employees with effect from October 22, 1980. The employees of the other non-statutory recognised canteens will, however, be treated as railway employees with effect from April

Plz 2

April 1, 1990. They would, therefore, be entitled to all benefits as such railway employees with effect from the said date.

The abstract of the above referred judgement of the Honourable Supreme Court is already with your office. Therefore, you are requested to finalise the long pending dispute of my client. Those who are awaiting since a long time to get their turn in railway. I shall be grateful if my letter task has been expedited and I hope to have positive result at least and kindly oblige me.

With regards,

Yours

(ASHOK AKHIYANI)

True copy
As per
Advice

Ashok Akhiyania,
Advocate, Vora Bazar,
Madhav Chambers,
BHAVNAGAR 364 001.
Dt: 6 -7-1990.

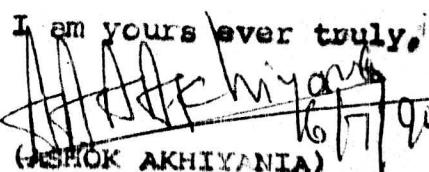
To,
Mr. H.H.Lal.
Divisional Railway Manager,
Bhavnagar Division,
Bhavnagar Para.

On behalf of my client M/s. Natubhai Vithaldas,
Kuberdas Juvalsinhji and your other employees of Non-
statutory recognised canteen of Railways frequent letters
and reminder have been written by me thereat!

On 1.6.90 I have made all the legal position clear
pertaining to absorbing the staff of non-statutory
recognised canteens run by the co-operative society.
Thereafter from 6.6.90 the General Manager, of Western
Railway, Bombay has instructed all the DRMs to absorb
canteen staff in class IV categories providing them
revised pay scale with past effect.

But unfortunately inspite of frequent request the
problem of my clients have not been solved so far. Mr.
J.W.Joshi, the then Secretary of Co-Operative Society has
closed down the canteen by hook or crook. If you are not
going to help my clients in any way please have the refusal
in black and white so at least we can approach the superior
forum at an early date because ~~any~~ my clients are almost
starving, there is no any other livelihood other than this.
I hope this matter will be cleared up by you on urgent
basis and kindly oblige me.

With regards,

I am yours ever truly,

(ASHOK AKHIYANIA)

Shashikant H. Dave

B.A., LL.B.

Advocate
Gujarat High Court
1st Floor, Tulsi Chambers,
Pitham Street,
BHAVNAGAR-364001

Residence :-

Block No. 3
Plot 1910/11,
Opp: Dr. K. R. Doshi School
Rupani Bldg. Road,
Krishnanagar, Bhavnagar.

Dt. 10.9.1992.

To,

By Regd. AD.

1. Union of India representing Western Railway through its General Manager, Church Gate, BOMBAY-20.
2. Chief Personnel Officer Western Railway Church Gate, BOMBAY-20.
3. Divisional Railway Manager, Western Railway, BHAVNAGAR PARA-364 003.
4. Senior Divisional Personnel Officer, DRMS Office, Western Railway, BHAVNAGAR PARA - 364 003.

Anne AS
P/24

NOTICE U/S. 80 of CPC

Under the instructions received from my clients S/Shri C.H. Pandya, Bhikha Nanji, Name Vithal, Kishore ~~udeisinh~~, Balkrishna S N. Pandya and Kuber Jamsinh I am constrained to serve upon you this notice as under :

1. My said Clients have completed more than 1350 days Service in the Western Railway Staff Canteen situated in the premises of the Divisional Railway Manager's Office at Bhavnagar Para.
2. My Clients were in the job of the said canteen in the years 1985-86-87 till 9-10-87. In terms of Railway Board's letter No.E(Wel)-254/0 Vol-VI dated 19-11-87 1-12-87 my clients have been extended the benefit of Revised Pay Scales.

contd...2

Shashikant K. Dave

B.A.,LL.B.

Advocate Gujarat High Court
2nd Floor, Tulsi Chambers,
Kanavalli Street,
BHAVNAGAR-364001

Residence :-

Block No. 3
Plot 1910/11,
Opp. Dr. K. R. Doshi School
Rupani Bldg. Road,
Kishannagar, Bhavnagar.

Dt.

PL 28
: 2 :

3. The Head Quarter Office of the Western Railway has issued various instructions in favour of the staff of the said Canteen which are applicable to my clients also, accordingly my Clients are eligible for regular appointment in Hailway Service.

4. My clients were working in the Railway canteen during the pendency of the Write Pitition No.2275/86 filed in the supreme Court as such the benefit of the judgement of the write petition is also applicable to my clients so far as their appointment with effect from 1.4.90 is concerned.

5. Incidental to the resolution of management committee S of the canteen the secretary has issued one Notice as a result of which my clients have been relieved from the job. This action, of relieving my clients, is illegal and with malafide intention to injure their future future S My clients are to challenge the same in the Court of Laws.

6. It is also brought to your notice that the said write petition was admitted in the year 1982 and its final judgement delivered in Feb. 1990 i.e. to say that during the pendency of the write Petition the action of discontinuing S my clients, from job, is with ulterior motive to harm their future.

contd....3

Hashikant K. Dave

B.A., LL.B.

Advocate Gujarat High Court
2nd Floor, Tulsi Chambers,
Kirchali Street,
BHAVNAGAR-364001

Residence :-

Block No. 3
Plot 1010/11,
Opp. Dr. K. R. Doshi School
Rupani Bldg. Road,
Krishnanagar, Bhavnagar.

Dt.

8/26
: 3 :

7. It is further brought to your notice that the Railway administration (authorities at Bhavnagar Para) have issued notification No. EP/254/2/1 dated 26.8.92 inviting offer from private vendors/contractors for running the Staff Canteen at DRM's Office Bhavnagar Para, this notice tantamounts to your intention to damage the future interests of my clients, and it is highly objectionable.

8. I bring to your personal notice that the abovesaid offer is quite against the provisions and spirit of the Supreme Courts Judgement mentioned above, you will be liable for the consequences arising out of your ~~said~~ offer as your action is completely in contravention to the said judgement. My clients reserve their rights for any litigation to safeguard their interests.

Ex-ante
(S. K. DAVE)
Under the instruction of
abovementioned Clients.

S. K. Dave
B.A., LL.B. Advocate
Gujarat High Court,
2nd Floor, Tulsi Chambers,
Kirchali Street, BHAVNAGAR

Yours truly
S. K. Dave

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH AT AHMEDABAD.

(District: Bhavnagar)

Case APPLICATION NO. 167 OF 1987.

- (1) Suresh Amratlal Kanada.
- (2) Madhusudan M. Jani.
- (3) Natubhai Vithalbhai Dharajia.
- (4) Bhikha Manji. ✓
- (5) Kishore Udaysing Barot. ✓
- (6) Balkrishna N. Pandya. ✓
- (7) Chandrakant N. Pandya. ✓
- (8) Kuberdas Juvansing Barot. ✓

ALL C/O: APPLICANT NO. 1

SURESH AMRATLAL KANADA,
TOLAT, WESTERN RAILWAY,
CONSUMERS CO-OP. SOCIETY,
BHAVNAGAR PARA,
BHAVNAGAR.

...Applicants..

Versus

- (1) Union of India -
(Notice to be served through,
The General Manager,
Western Railway, Churchgate,
Bombay).

Filed in
Court
by M.S. Trivedi
Pewal
05/10/83

(2) The Divisional Railway

Manager,

Bhavnagar Para,

Western Railway.

Bhavnagar.

• • • Respondents.

TOP

THE HON'BLE CENTRAL ADMINIS-
TRATIVE TRIBUNAL, AHMEDABAD
BENCH AT AHMEDABAD.

THE HUMBLE APPLICATION OF
APPLICANTS ABOVE NAMED -

MOST RESPECTFULLY SHE WETH THAT,

• 3 •

1. Particulars of the Applicants:

(1) Names of the Applicants : 1) Suresh Amratlal Kanada.
2) Madhusuden N. Jani.
3) Natubhai Vithalbhai Dharajia.
4) Bhikha Nanji.
5) Kishore Udaysing Barot.
6) Balkrishna N. Pandya.
7) Chandrakant H. Pandya.
8) Kuberdas Juvansing Barot.

(2) Designation and Office in which employed respectively
1) Toilet in Western Railway,
: Consumers Co-op. Society,
: Bhavnagar Para, Bhavnagar.
2) Manager/Bill Clerk,
: Consumers Co-op. Society,
: Bhavnagar Para, Bhavnagar.
3) Kitchenman in Western Railway
: Canteen,
: Bhavnagar Para, Bhavnagar.
4) Kitchenman in Western Railway
: Canteen,
: Bhavnagar Para, Bhavnagar.
5) Waiters in Western Railway
: Canteen,
: Bhavnagar Para, Bhavnagar.
6) Sweeper in Western Railway
: Canteen,
: Bhavnagar Para, Bhavnagar.

- : 7) Manager/Bill Clerk
- : in Western Railway Canteen,
- : Bhavnagar Para, Bhavnagar.
- : 8) Counterman in Western Railway
- : Canteen,
- : Bhavnagar Para, Bhavnagar.

(iii) Office address : Same as above.

2. Particulars of the respondents:

(i) Name and/or designation of the respondents : 1) Union of India,
Notice to be served through:
: The General Manager,
: Western Railway, Churchgate,
: Bombay.

: 2) The Divisional Railway Manager,
: Bhavnagar Para, Western Railway,
: Bhavnagar.

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

The decision taken by the Divisional Railway Manager in the PNM Meeting held with Western Railway Mandoor Sangh on 30/31.12.1986 in the matter of cancelling the screening of workers Co-operative Society/Canteen.

(i) Order No. : I

(ii) Date. : I N.I.L.

(iii) Passed by. : I

4. Subject in brief :

(i) By way of this Application, the Applicants beg to challenge the decision of the respondent No.2, to cancel the screening of the workers of the Co-operative Society and Canteen and thereby setting aside his order dated 11.9.1985 regarding empanelment of Casual Labours/Substitutes/other Staff, so far as the Applicants are concerned.

(ii) The Applicants say that the Applicants Nos.1 & 2 are serving with the Western Railway Consumers Co-operative Society, whereas rest of the Applicants are serving with the Western Railway Canteen. The said Consumers Co-op. Society and Western Railway Canteen are constituted under the provisions of Indian Railways' Establishment Manual, the Canteen is a statutory Canteen. The Applicants working in the Consumers Co-operative Society have to attend duties during the period of 8.00 a.m. to 6.00 p.m. The Applicants say that all the Applicants have put in more than seven years service. A statement showing service history of the Applicants is annexed hereto and marked Annexure 'A' to this Application.

Ann. 'A'

(iii) The Applicants say and submit that as the Applicants are working in the Consumers Co-op. Society and statutory Canteen, which are constituted under the provisions of Indian Railways' Establishment Manual, all the applicants are treated as staff

of quasi-Administrative Offices. The Applicants say that the Railway Administration has considered the cases of such employees who are working as a staff of quasi-Administrative Offices or Organisation, for considering them to absorb in the regular service on Railway. The Applicants say that the Railway Board has written a letter No. E (MG) III/77/5 dated 26.8.1977 addressed to the General Managers, All Indian Railway and others. In this letter, it has been pointed out by the Railway Board that the staff on Co-operative Societies, Canteens, Commissioned Hearers, Vendors of Department, Catering etc, can be considered for regular absorption in Class IV alongwith other Casual Labours/Substitutes. However, it is clarified in this letter that such staff can be considered after eligible Casual Labours and Substitutes have been considered i.e. in the list of Screening they will be below all Casual Labours and Substitutes. The Applicants say that a copy of the Railway Board Circular was served by the General Manager, Western Railway letter dated 14.9.1977 to all concerns. A copy of the letter of General Manager dated 14.9.1977 is annexed hereto and marked Annexure 'B' to this Application.

(iv) The Applicants say that all the Applicants have put in at about 7 years service. The cases of the Applicants were considered for absorption in Class IV Mechanical (C&W) - Department under the respondent No.2. The Applicants say that the

screening of the Applicants were held at B.V.C. on 19.8.1985 and as all the Applicants were found fit, their names are included in the select list published by the respondent No.2's letter dated 11.9.1985. The Applicants say that the names of all the Applicants are arranged below the names of selected Casual Labours/Substitutes, in accordance with the policy of the Railway Board. Annexed hereto and marked Annexure 'C' is a cop. of the said letter of respondent No.2 dated 11.9.1985.

(v) The Applicants say and submit that the selected Casual Labours/Substitutes are given appointment to the post of Cleaner/Khalasi in the payscale of Rs.196-232 (R) in (C&W) Department. The Applicants say and submit that though the respdt. No.2 are having sufficient vacancies to absorb the Applicants in Class IV Services, till today, they have not given appointment orders to the Applicants.

(vi) The Applicants say and submit that the Applicants are supporters of the Western Railway Employees' Union. It appears that the rival Union viz. Western Railway Mazdoor Sangh have taken Agenda Item No.116/85(C)/E.1160/32/730 in the PNM Meeting and thereby represented before the respondent No.2, to cancel the select list dated 11.9.1985 so far as the Applicants are concerned.

The Applicants say that the said PNM Meeting was held between the Western Railway Masdoor Sangh and the Officers of the respondent Railway Administration on 30/31-12-1986 and the respdt. No.2 has agreed in the said meeting to cancel the screening of workers of Co-operative Society. Annexed hereto and marked Annexure 'D' is a copy of the said letter of the respondent No.2 dated 2.2.1987 alongwith relevant portion of the Minutes.

(vii) The Applicants say and submit that the screening of the Applicants was made in accordance with the Policy of the Railway Board and there is no reason for the respondents to cancel the said select list. The Applicants further submit that there is sufficient vacancies with the respondent Railway Administration and as per the information of the Applicants, the respondents are considering to hold fresh screening to fill in/remaining vacancies of the Class IV Employees, instead of appointing the Applicants to the said posts. In these circumstances, the Applicants have no other equally efficacious alternative remedy, but to approach this Hon'ble Tribunal by way of the present Application on the following main amongst other grounds which are without prejudice to one another : -

Ann. 'D'

G R O U N D S :

(a) The Applicants say and submit that the impugned decision of the respondents to cancel the selectlist is illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India and the said decision requires to be quashed and set aside by this Hon'ble Tribunal.

(b) The Applicants say and submit that the Applicants are eligible for being considered for absorption in the regular services on Railway as per the Railway Board's letter dated 26.8.1977. The Applicants were called for screening on 19.8.1985 and all the Applicants were found fit to hold the Class IV post as Cleaner/Khalasi in the payscale of E.196-232 (R) in (C&W) Department under the respondent No.2. The Applicants say and submit that there is no reason with the respondent Railway Administration to deprive the Applicants for giving appointment to the said posts. The Applicants further submit that under the Railway Board's letter No.E(NG)62 PM 1/91 of 10.7.1964, following guidelines in the matter of the Currency of Panels are issued : -

(1) Panels formed by the Departmental selection Board and approved by the competent authority shall remain in force for two years from the date of approval of the same by the competent authority or till they are exhausted whichever is earlier.

(2) An employee who once officiates against a non-fortuitous vacancy in his turn on the panel shall not be required to appear again for fresh selection.

(3) In case an employee lower in the panel has officiated whereas one higher in the panel has not officiated for reasons beyond the latter's control, the latter employee will not be required to appear for fresh selection.

The Applicants submit that it is clear from the above guidelines of the Railway Board that the Currency of Panels is for two years or till it is exhausted. The empanelment of the Applicants is by letter of the respondent No.2 dated 11.9.1985 and the two years will be completed by 10.9.1987 and till the said panel is not exhausted by giving appointments to all persons. In these

circumstances, the decision of the respondent No.2 to cancel the select list/empanelment is contrary to the Rules of the Railway Board and, therefore, it is illegal, null and void.

(c) The Applicants say and submit that the respondent No.2 has taken the impugned decision under the influence and pressure of the Western Railway Mazdoor Sangh. The Applicants say and submit that the Western Railway Mazdoor Sangh wishes that the staff of the Co-operative Societies/Statutory Canteens maynot be absorbed in the regular vacancies, which is not in accordance with law. However, inspite of well settled rules and guidelines of the railway Board, the respondent No.2 under influence of the Western Railway Mazdoor Sangh has taken the impugned decision which is an example of colourable exercise of power and the same suffers from the vice of malafide and, therefore, the impugned decision is required to be quashed and set aside by this Hon'ble Tribunal.

(d) The Applicants say and submit that the Applicants have right for being considered in Class IV vacancies in regular

service of the Railway Administration. The cases of the Applicants are considered and they are found fit by the Screening Committee. In these circumstances, by impugned decision, the Applicants are deprived from the employment in the respondent Railway Administration which is violative of Articles 14 and 16 of the Constitution of India and, therefore, it requires to be quashed and set aside by this Hon'ble Tribunal.

(e) The Applicants say and submit that before taking the impugned decision, the respondents have not given any show cause notice nor given opportunity of being heard to the Applicants and, therefore, the impugned decision is violative of principles of natural justice and, therefore, it requires to be quashed and set aside by this Hon'ble Tribunal.

The Applicants crave leave to add to, amend, alter and/or substitute any of the above grounds as and when necessary to do so.

(viii) The Applicants, therefore, pray that,

(A) Your Honour be pleased to decide that the decision taken by the respondents in the PNM Meeting with the Western Railway Mazdoor Sangh held on 30/31.12.86, cancelling the screening of the Applicants is illegal, null and void, arbitrary, discriminatory, violative of Articles 14 and 16 of the Constitution of India and the same is in contravention of the Rules and Guidelines laid down by the Railway Board from time to time ,

(B) Your Honour be pleased to direct the respondents, their agents and servants give appointment to the Applicants in the Class IV Services with effect from the date on which the Casual Labours/ Substitutes are given appointments and grant all consequential benefits of pay, allowances, arrears of pay, stepping up, seniority etc,

(C) Your Honour be pleased to direct the respondents, their agents and servants not to implement the decision taken in the PNM Meeting dated 30/31.12.1986 in the matter of cancelling select list at Annexure 'C' to this application, so far as the Applicants are concerned, pending the admission, hearing and final disposal of this Applicant ,

(D) Your Honour be pleased to restrain the respondents, their agents and servants from canceling the select list as published by the letter of the respondent No.2 dated 11.9.1985 at Annexure 'C' to this application and hold the fresh screening test to fill in the vacancies in Class IV services under respondent No.2, pending the admission, hearing and final disposal of this Application ,

(E) Your Honour be pleased to grant any other and further order/s as the Honourable Tribunal may deem fit in the interest of justice ;

And for this act of kindness and justice, the Applicants, as in duty bound, shall ever pray.

Place : Ahmedabad.

(R.J. Oza)

Date : 03.04.1987.

Advocate for Applicants.

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VERIFICATION

I, Suresh Amratlal Kanada, Applicant

No.1 herein, do hereby state that I am
authorised by all the Applicants to sign this
Application and verification. I say that the
facts stated hereinabove are true to the best
of my knowledge, information and belief and
I believe the same to be true.

Solemnly verified at Ahmedabad, this
3rd day of April, 1987.

(Suresh Amratlal Kanada)