

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 95/92 93
T.A. No.

DATE OF DECISION 5-8-93

The Union of India and Ors. Petitioner

Shri R.M. Vin Advocate for the Petitioner(s)

Versus

Shri Damodar Jadavji Jani Respondent

Shri Y.V. Shah Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.B. Patel Vice Chairman.

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

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 ?

NO.

1. The Union of India
 Owing Western Railway
 Through its General Mnager
 Western Railway, Churchgate, Bombay

2. The Divisional Railway Manager
 Western Railway, Bhavnagar Division
 Bhavnagar Para, Bhavnagar, Applicants

Advocate Shri R.M. Vin

Versus

Shri Damodar Jadavji Jani
 Vadvanathwali Sheri
 Opp. Takie Bhavnagar

Respondents

Advocate Shri Y.V. Shah

O R A L J U D G E M E N T

In

O.A. 95 of 1992

Date: 5-8-93

Per Hon'ble Shri N.B. Patel Vice Chairman.

The applicant was working as Records Sorter in the Divisional Office of the Western Railways at Bhavnagar. He had retired from service in 1985. He filed a Recovery Application before the Labour Court, Bhavnagar and his Recovery Application having been allowed, the Railways have filed this petition under Article 227 of Constitution of India seeking the

quashing and setting aside of the order passed by the Labour Court. The applicant claims higher pay-scale of Rs. 55-85 on the ground that, by Circular Exhibit 21 dated 23-1-1958, the Railway Board has directed that Record Sorters, Record Lifters and Record Suppliers who are in the pay-scale of Rs. 40-60, but who are performing semi-clerical duties, should be given higher scale of pay of Rs. 55-85. The Board also directed that 1/3 of the total number of posts in the aforesaid categories should be created for being given pay in the higher scale of Rs. 55-85. The applicant's clear case was that he was performing semi-clerical duties and, therefore, he was entitled to the benefit of this Circular Ex-21 dated 23-1-1958 and, despite the ~~circular~~ ^{Certificate} or note issued by the Head Clerk of the Office in which he was working that he was performing certain semi-clerical duties and, therefore, the post occupied by him should be upgraded, he was not given higher scale of Rs. 55-85. It bears repetition that the only ground on which the applicant claimed benefit of higher scale was that he was performing semi-clerical duties and, hence, under the circular Ex. 21, he was entitled to be fixed in the higher scale of Rs. 55-85. It is important to note that, nowhere in the reply filed by the Railway Administration, any dispute was raised about the fact that the applicant was performing semi-clerical duties. The only ground on which the claim was resisted was that the applicant was working as a Record Sorter in the Divisional Office in the Stores Department and that the benefit of Circular Ex. 21 was available only to those Record Sorters who were working in Stores Department and not to other Record Stores like the applicant who were working in

The Head Office.
Stores Department. Therefore, the first question to be decided by the Learned Judge of the Labour Court was whether the benefit provided for by Ex.21 was confined to only Record Sorters in the Stores Department. A bare perusal of Ex.-21 shows that that it does not restrict the benefit provided for by it to Record Sorters working in the Stores Department. The distinction made by the Circular is only between Record Sorters who are performing the normal duties of the post of Record Sorter only and those Record Sorters who are performing semi-clerical duties. The benefit provided for by the Circular is clearly intended to be given to those Record Sorters who were performing semi-clerical duties. Even the evidence of the applicant, which was read out to us, clearly contains the assertion by him that he was performing semi-clerical duties and there was not the remotest challenge to that evidence tendered by the applicant. We, therefore, find that the Learned Judge was not wrong in holding that the applicant, who was performing semi-clerical duties, was entitled to the benefit of the Circular Exhibit 21 dated 23-1-58.

Mr. Vin drew our attention to Ex. 25 letter, dated 17-12-1958, by which the Railway Board has clarified the point raised in respect of the some earlier letter dated 10-9-1958. This letter states that the order dated 10-9-1958 is applicable to the Stores Department only. However, the letter dated 10-9-1958 containing

the orders of the Board, was not brought on record, and, therefore, it was not possible to say that the applicant was not entitled to claim the benefit of the circular Ex.21 by virtue of the Board's Circular dated 17-12-1958. One more point, which was urged by Mr. Vin, was that the Circular Ex. 21 itself shows that the arrears were not to be paid on the basis of that Circular for the period prior to 1-4-1957. The learned Judge has ~~not~~ awarded arrears to the applicant from 1-4-1956. It is conceded that in the operative part of the judgement the learned Judge has directed working out of the arrears with effect from 1-4-1956 instead of 1-4-1957 as required by the Circular. However, on going through the judgement, we are clearly of the ^a opinion that there is ~~is~~ slip of pen in mentioning the date 1-4-1956 instead of the date 1-4-1957 as the date from which the arrears were to be paid to the applicant. Mr. Shah, on behalf of the applicant, also conceded that the applicant ~~can~~ ^{cannot} claim arrears for the period prior to 1-4-57. It also goes without saying that, under the orders of the Learned Judge, what will be payable to the applicant will be only the difference which he would have received if he was ~~fixed~~ in the scale of Rs. 55-85 from 1-4-57 and the actual pay disbursed to him in the scale of 40-60. We do not find any case for interference

in the order of the Learned Judge in exercise
of our powers under Article 227 of the Constitution
of India. Application is summarily rejected.
No order as to costs.



(V. Radhakrishnan)
Member (A)



(N.B. Patel)
Vice Chairman.

*AS.

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD.

Application No. 107/95/93 of 199

Transfer Application No. _____ Old writ Pet. No. _____

C E R T I F I C A T E

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

Dated : 17/08/93

Countersigned :

Chhajed 10/93
Section Officer/Court Officer

28C
Sign. of the Dealing Assistant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AT AHMEDABAD BENCH

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VERSUS

D. J. Jani