

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

**O.A. No. 160/1993 with M.A. No. 109/93.**  
~~Ex�de~~

**DATE OF DECISION 5.8.1993**

Union of India & Ors. Petitioners

Mr. R.M. Vin, Advocate for the Petitioner(s)

Versus

Maganlal Bhimbhai Surti, Respondent

Advocate for the Respondent(s)

**CORAM :**

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

The Hon'ble Mr. M.R.Kolhatkar, Admin. 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. Union of India,  
Owning the Western Railway,  
through its General Manager,  
Western Railway,  
Churchgate, Bombay.
2. Divisional Railway Manager,  
Western Railway,  
Bombay Central, Bombay.  
(Advocate: Mr. R.M. Vin) .... Applicants.

Versus.

Maganlal Bhimbhai Surti  
residing at T 32/2  
Railway Colony, Surat.

.... Respondent.

ORAL ORDER

O.A.No. 160/1993  
with  
M.A.No. 109/1993

Date: 5.8.1993.

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

This application is filed by the Union of India owning the Western Railway against one Maganlal Bhimbhai Surti, under section 19 of the Administrative Tribunals Act, 1985, challenging the award passed by the Presiding Officer, First Labour Court, Surat dated 14th December, 1990. This application before us is filed on 11th February, 1993. Therefore, the present applicants before us filed M.A. 109/93 praying for condonation of delay in filing this application. It is mentioned in para 4 of this M.A that the applicants were advised to file Writ Petition under ~~section~~ <sup>Art.</sup> 227 of Constitution of India before the High Court of Gujarat, but the said petition was dismissed on 22nd January, 1993 in which the High Court of Gujarat held that the application was not maintainable in view of

Administrative Tribunals Act, 1985. The applicants have therefore, averred in M.A that the time which was spent before the High Court of Gujarat was a bonafide one and therefore, that period be excluded while computing the limitation and in any case the delay be condoned. The averments in M.A show that the time spent before the High Court of Gujarat in the Writ Petition filed by the applicants was a bonafide one under the advise given to the applicant and hence we condone the delay in filing this application and treat it within time.

2. We have heard the learned advocate for the applicants Mr. Vin and we have perused the award under challenge. The respondent~~s~~ before us was at a material time according to the applicants Substitute Platform Porter at Udhna Railway Station, who filed an application under Section 33(C)(2) of Industrial Disputes Act, 1947 for recovery of Rs. 5460/- on the ground that he worked as a Train Clerk in the grade of Rs. 110-180(A) from 1964 to January 1970, but he was paid according to his scale Rs. 70-85(A) in his regular post of Substitute Platform Porter. The said recovery application No. 1/85 was filed in the Labour Court (Central), First Court at Surat. The defence of the present applicant~~s~~ before the Labour Court was that the present respondent was never appointed to the post of Train Clerk either temporarily or permanently and that his application suffered from delay and latches and that the Labour Court had no jurisdiction. The Labour Court awarded the amount

demanded by the applicant with cost.

3. We have gone through the award. The Labour Court <sup>has not</sup> ~~properly~~ appreciated the evidence on record. The ~~only~~ <sup>one</sup> issue raised before the Labour Court was that the applicant was not entitled for the amount prayed by him. The Labour Court has after appreciating the evidence <sup>in</sup> ~~before~~ it come to the conclusion that the applicant had worked in Grade III with the opponents but he was denied the payment. It has come to the conclusion that the applicant had worked in Grade 110-180 but he was given grade of 70-85 which was not justified. The original applicant had demanded the amount from time to time but assurance was given by the original opponents for payment, but no <sup>re</sup> ~~is~~ payment was made. We find that no error of law committed <sup>in</sup> ~~by~~ the learned Labour Judge in giving the award. There is no error made by him in the procedure which has resulted into miscarriage of justice. The jurisdiction of this Tribunal under Article 227 of the Constitution of India is very limited and we are not entitled to reappreciate the evidence on record. No illegality is <sup>in</sup> ~~for~~ pointed out to us by the learned advocate Mr. Vin ~~that~~ the applicants. Having considered all these points raised by the present applicants before us and having gone through the award we find no substance in the application and hence we reject it summarily. O.A. is dismissed, though M.A. 109/93 for condonation of delay is allowed.

M.R.Kolhatkar

(M.R.Kolhatkar)  
Member (A)

R.C.Bhatt

(R.C.Bhatt)  
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

AHMEDABAD.

Application No. CA/160/93 ~~is with~~ MT/1109/93 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 : 10/08/93.

Countersigned : *Adarsh a-10/93*

Section Officer/Court Officer

1281  
Sign. of the Dealing Assistant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AT AHMEDABAD BENCH

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NAMES OF THE PARTIES Union of India & Ors.

## VERSUS

14. B. Sushi