

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

C.A.15/95 in
O.A. NO. /581/93
T.A. NO.

DATE OF DECISION 14.3.1995

B.V.Nikam

Petitioner

Mr.P.K.Handa

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. N.B.Patel

Vice Chairman

The Hon'ble Mr. K.Ramamoorthy

Administrative Member

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 ?

No

B.V.Nikam

C/o. 148/D, Railway Colony,
Pratapnagar, Baroda.

Applicant

Advocate Mr.P.K.Handa

versus

1. Union of India,
Owning & represented by :
Shri M.Ravindra,
General Manager, W.Rly.,
H.Q.Office, Churchgate,
Bombay.
2. Shri V.K.Vij,
Divl.Rly.Manager, W.Rly.,
Divisional Office,
Pratapnagar,
Baroda.
3. Shri R.K.Jain,
Sr.Divl.Electrical Engineer (TED),
W.Rly., DRM's office, Pratapnagar,
Baroda.

Respondents

Advocate Mr.N.S.Shevde

ORAL ORDER

C.A. 15/95 in

O.A.581/93

Date: 14.3.95

Per Hon'ble Mr.N.B.Patel

Vice Chairman

Reply filed by Mr.Shevde taken on
record. Heard learned advocates. From the reply filed
by the respondents as also from what is stated by
Mr.Handa, himself, it is clear that there is no disobedience
much less any wilful disobedience, of the directions of
Tribunal to maintain status quo as regards the post

held by the applicant. It is stated that the applicant still holding the same post, which he was holding from On 2.5.1994 when status quo order was passed. There is, in our opinion, no contempt and the proceedings are, therefore, closed. Notice discharged.

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(K. Ramamoorthy)
Member (A)

7
(N.B. Patel)
Vice Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Application No. CA/15195 in OA/1581193 of
Transfer Application No. _____ of

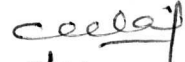
CERTIFICATE

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

Dated : 06.04.85

Countersign :


Section Officer.


Signature of the Dealing
Assistant :

INDEX - SHEET

NAME OF THE PARTIES Me. B. V. Nirkom

U. D. 1. 2000.

[illegible]

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAL BENCH, AHMEDABAD

CAT/JUDICIAL SECTION

Submitted:

Original petition No. CA 15195
of _____

Miscellaneous petition No. _____
of _____

Shri B. V. NIKAM Petitioner(s)

Versus

Union of India & Ors Respondent (s)

This application has been submitted to the Tribunal by

Shri P. K. Henda, Advocate

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.

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.

S.O. (J) 20.1.95

D.R. (J)

21.1.95

*K/28/10/94

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

CONTEMPT APPLICATION NO. 15 OF 1994-95

IN

ORIGINAL APPLICATION NO.581 OF 1993

BETWEEN:

B.V.Nikam

..APPLICANT

V/S.

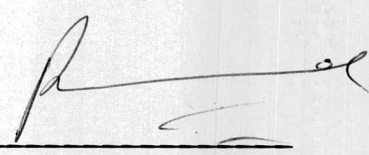
Union of India & Ors.,.

..RESPONDENTS

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Sr. Particulars of the documents on Page
No. which relief upon No.

1	APPLICATION	1-3
A	Hon'ble Bench's order dated 2/5/94 in MA 193/1994.	4
A1	Transfer Orders dated ^{4/10} 9/9/93	5
A2	Draft charges.	6.


Signature of applicant's Advocate

Place : Baroda

Dated : 10-1-95

Filed by Mr. P. V. Hamde
Counsel Advocate for Petitioner
and second set of three
for the copy sent/not served to
other side.

01.19/1/95/ By Registrar C.A.T (A)
Ahmedabad Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

CONTEMPT APPLICATION NO. 15 OF 1994 ~~95~~

IN

ORIGINAL APPLICATION NO.581 OF 1993

BETWEEN:

B.V.Nikam,

C/O.148/D,Railway Colony,

Pratapnagar,

BARODA 390004

...APPLICANT

VERSUS

1. Union of India,

Owning & Represented by:

Shri M.Ravindra,

General Manager,W.Rly.,

Headquarter Office,Churchgate,

BOMBAY 400020

2. Shri V.K.Vij,

Divl.Rly.Manager,W.Rly.,

Divisional Office,Pratapnagar,

BARODA 390004

3. Shri R.K.Jain,

Sr.Divl.Electrical Engineer(TRD),

W.Rly.,DRM's office,

Pratapnagar,

BARODA 390004

...RESPONDENTS

The applicant has filed the OA No.581 of 1993 seeking the interim relief to grant STATUS QUO till the finalisation of the application as the applicants were transferred on promotion under restructuring out of Baroda,whereas one Shri Ramsnehi Traction Foreman,Bharuch was promoted and posted at Baroda though he was not eligible also,but

considering his length of service that he will be completing one year later on he was promoted in anticipation which is against the restructuring procedure as well as under the reservation quota also. The Hon'ble Bench has not granted the interim relief and the application was admitted. However, the applicants have filed Misc.Application 193 of 1994 in OA 581 of 1993 again seeking the interim relief to maintain STATUS QUO as Shri Ramsnehi who is respondent No.4 was not yet promoted and posted. The Hon'ble Bench was pleased to grant the STATUS QUO vide order dt.2/5/1994 shown at Anenx.A, as under:-

"MA 193/94 is therefore allowed, STATUS QUO as regards posts held by the applicants at present is granted until further orders with liberty to any of the respondents to file an MA for modifying or vacating the status quo, MA 193/94 stands disposed of direct service permitted as regards respondent No.2 & 3."

The applicant further submits that till date no MA has been filed neither by the respondent No.1,223 nor by the respondent No.4 who is a private party. Therefore the STATUS QUO granted stands good till date as it was an absolute stay till the finalisation of the matter. The applicant submits that till date the status quo was being maintained by the respondent No.2,3,,but all of a sudden without getting the STATUS QUO modified or vacated, the respondent No.2 & 3 have promoted the respondent No.4 under earlier order of transfer dt.^{4/10}9/93 shown in Annex.A1, without issuing any

further promotion order he has been straightaway relieved and allowed to join at Kosamba. It clearly indicates that the respondent No.2 & 3 have intentionally and willfully disobeyed the orders of the Hon'ble Bench by promoting the respondent No.4 against whom the STATUS QUO was granted.

The applicant prays to the Hon'ble Tribunal as under:-

- (i) The respondent No.2 & 3 may be taken up suitably for disobeying the orders of the Hon'ble Bench intentionally and wilfully. They may be sent to Jail to set an example for others.
- (ii) The respondent No.2 & 3 may be directed that the respondent No.4 who has been promoted and posted at Kosamba may be brought back to the original position, till the finalisation of the application.
- (iii) Any other relief as the Hon'ble Bench deems fit may be granted.
- (iv) Cost of the Contempt Application may be awarded.

AFFIDAVIT

I, Balkrishna, son of Vittaldas Nikam, aged 45 years, working as Sr.TPC in DRM's Office, Baroda, do hereby solemnly affirm and state on oath that whatever is stated above are true to my personal knowledge and belief and I have not suppressed any material fact.



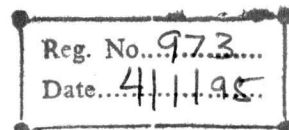
Place : Baroda

Dated : 4.1.95

Signature of applicant

I know the applicant.

Advocate.



Solemnly affirmed afore me by B.V. Nikam, who is Identified by Advocate and P.K. Handa, whom I personally know, Date 4.1.1995

L.S. PEERZADA
NOTARY

M.A./193/94 in O.A./581/93

M.A. /193/94.

6.A./581/93 : The respondents may file a reply on merits latest by 6/6/1994 , as requested by Mr. N.S. Shevde. Rejoinder if any may be filed within one week after the filing of the reply. Reply and rejoinder to be filed before the office. After the pleadings are completed the matter may be fixed for final hearing in due course.

Sd/-
(N.B. Patel)
Vice Chairman.

Prepared by: H.P. Golshi
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Continued on p. 1

FILE COPY

Section Officer (J)
Central Administrative Tribunal
Ahmedabad Bench

C/- DRM/E/BRC

S₀ DEE/E/TRD/BRC.

पश्चिम रेलवे WESTERN RAILWAY
क्रमांक/NO.

मुंबई रेल्वे प्रबंधक का कार्यालय
Mumbai Railway Manager's Office
व. / Vasodara.

Don Colby

Western Railway

Divisional Office,
Baroda.

No.E/ELT/839/10/2/TRD Pt.I

Dated: 4/10/1993.

MEMORANDUM.

Sub: Promotion, Reversion and Transfer of Class-III
NG Staff - Elect. TRD Deptt. - BRC Division.
Supervisory Staff scale R.2000-3200 (RP) and
R.2375-3500 (PR).

Ref (1) CM (E) CCG's letter No.E/EL/839/7/34 vol.IV dt.
20/9/93.

(2) CM (E) CCG's letter No.E/EL/1020/7/6/1 dt.20/9/93.

(3) CM (E) CCG's letter No.E/EL/830/7/Restructuring
dt.26/8/93 and 17/9/93.

===X===

The following transfer orders are issued which should be
carried out immediately.

As per HQ. office letter No.E/EL/830/7/Restructuring/AC-TRD
dated 26/8/93, 11 posts of CTFOs have been pin pointed on BRC
Division in addition to above letter and letter of even No. dated
17/9/93. 2 (Two) posts of CTFOs have been floated from KTT
Division to BRC Division. These posts will be operated as CTFO
(N) VS and CTFO(S) VS.

As per HQ. office letter No.E/EL/839/7/34 vol.IV dt.
20/9/93, TFOs are promoted as CTFOs scale R.2375-3500 (RP) and
posted as under:-

Sr. No.	Name	Present posting	Scale R.	Revised posting	Scale R.
1.	Shri Z.R. Pardeshi	CTFO(I) VS	2375-3500	CTFO(S) VS	2375-3500 (RP)
2.	" P.K. Mishra,	CTFO(II) VS	-do-	CTFO(N) VS	-do-
3.	" Jodh Singh	Sr.TPC/PRTN	2000-3200	CTFO (TRD) VS	-do-
4.	" R.M. Patel,	TFO(W/S) VS	-do-	CTFO(workshop & stores) VS.	-do-
5.	" I.H. Saiyed	TFO(C) BH	-do-	CTFO (TRD) DK	-do-
6.	" B. Arun	TFO(C) VS	-do-	CTFO (TRD) ANND	-dp-
7.	" Dhansingh	TFO (OHE) ADI	-do-	CTFO (TRD) GDA	-dd-
8.	" Ram Sanehi (SC)	TFO (OHE) BH	-do-	CTFO (TRD) KSB	-do-

Promotion of Shri Ram Sanehi will be effected on completion
of 1 year as TFO i.e. from 16/12/93. Till such time he will
work as TFO (OHE) KSB.

9. Shri B.V. Nikam, Sr.TPC scale R.2000-3200 (RP) working under
CTPC/PRTN is promoted to officiate as CTFO scale R.2375-
3500 (RP) and transferred to RTM Division.

10. Shri R.A. Singh, TFO (Line-1) PRTN and Shri V.R. Pathan,
TFO (OHE) ANND scale R.2000-3200 (RP) are promoted to
officiate as CTFO (scale R.2375-3500 (RP) and transferred
to KTT Division.

Tom Long

.....2.

6

DRAFT CHARGES

The respondents No.2 & 3 have wilfully disobeyed the orders of the Hon'ble Bench passed in MA No. 193 of 1994 in OA No.581 of 1993, granting status quo regarding the transfer orders on promotion issued under restructuring scheme in favour of the petitioners, though Shri Ramsnehi respondent No.4 was also a party in that case. In spite of the status quo granted by the Hon'ble Bench respondent No.2 & 3 have disobeyed the orders and intentionally promoted the respondent No.4 which affected the posting of the applicants in Baroda division adversely.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

CONTEMPT APPLICATION NO.15 OF 1995

IN

O. A. NO.581 OF 1993

B.V.Nikam.....

... Applicant

V/s

Union of India & Ors....

... Respondents

AFFIDAVIT IN REPLY ON
BEHALF OF RESPONDENTS

I, B.N.Meena, age about 38 years, residing at Railway Bungalow, Pratapnagar, Baroda, do hereby state on solemn affirmation as under:-

1. That at present I am serving as Senior Divisional Personnel Officer in the Office of the Divisional Railway Manager, Western Railway, Baroda and while working in that capacity I am responsible for establishment matters of the staff working in Baroda Division. I have read the copy of Contempt Application filed by the applicant and am filing the present affidavit in reply on behalf of the respondent Nos.1, 2 & 3.

Filed in duplicate
on 14.3.95
Akh
14/3/95

2. At the outset I state that the respondents have not committed any contempt of the interim order dated 2.5.94 passed by this Hon'ble Tribunal on M. A. NO.193/94 in O.A.NO.581/93 and the present contempt application deserves to be dismissed with costs.

3. Regarding para 1 of the application, the respondents rely on the prayer by the applicant in O.A.NO.581/93 claiming interim relief. It is not disputed that the said O.A.No.581/943 filed by Shri Ajitsingh Raj and two others was admitted but no order for status quo was granted. The prayer for said interim order was rejected. It is not disputed that thereafter the applicant filed M.A.NO.193/94 in the said O.A. NO.581/93 on which Hon'ble Tribunal passed order to maintain status quo as regards posts held by the applicants at the time of passing the orders until further order as mentioned in Annexure A with this application.

4. Contents of para 2 of the application are not fully true and are not admitted. It is submitted that the respondents are obeying and following the said interim order dated 2.5.94 at Annexure A with the application. However, it is denied that without getting the status quo modified or vacated, all of a sudden the respondent Nos.2 & 3 have promoted the respondent No.4 under earlier order of transfer dated 9.9.93 produced by the applicant at Annexure A/1 with

: 3 :

the present application as alleged. It is denied that any further promotion order was required to be issued promoting the respondent No.4 to the scale of Rs.2375-3500(RP). It is denied that the said action of respondent Nos.2 & 3 further promoting the respondent No.4 and straightway relieving him and allowing him to join at Kosamba indicates that the respondent Nos.2 & 3 have intentionally and wilfully disobeyed the orders of this Hon'ble Bench by promoting the respondent No.4 against whom status quo was ordered. The averments of the applicant are misconceived. It may be stated that the applicants have filed O.A.NO.581/93 against Memorandum No. E/ELT/839/10/2/TRD Pt.I, dated 1.10.93 transferring the applicants to other Divisions on restructuring of cadre. The order produced by the applicant at Annexure A/1 with this application is dated 4.10.93 and not 9.9.93. The respondent No.4 Shri Ram Snehi is at serial No.8 in the said order at Annexure A/1 dated 1.10.93 and was transferred on promotion from TFO-OHE-Bharuch to CTFO-TRD-Kosamba. The said order also states that the promotion of respondent No.4 will take effect from 16.12.93 on completion of one year. The applicant has produced Memorandum No. E/ELT/839/10/2/TRD Pt.I, dated 4.10.93 is not a correct and complete copy of the order. The copy of order produced by the applicant is incomplete. In fact the order is dated 1.10.93. The order of status quo dated 2.5.94

his to maintain status quo as regards the posts held by the applicants at the time of passing the order until further orders. The respondents have not disobeyed the said interim order and the applicants are not disturbed from the posts held by them at the time of passing order dated 2.5.94.

5. The applicant is not entitled to any of the reliefs claimed in para 3 of the application.

In view of what is stated above, the contempt application deserves to be dismissed and may kindly be disposed of accordingly and notice may be discharged.

What is stated above is true to my knowledge and information received from the record of the case and I believe the same to be true.

Baroda

Dated: 13.3.1995

Senior Divisional Personnel Officer

वरिष्ठ संवत् कार्यालय-अधिकाारी

Western Railway Baroda.

पश्चिम रेलवे बडौदा,



I know the
Signature he has
Signed before me.
R. K. Bhut
Advocate.
13.3.95

Solemnly affirmed before me by
Shri. R. K. Bhut
who is identified before me by
Shri. R. K. Bhut Advocate
to whom I personally know.
On this 13 day of 3 1995.

Head Clerk,

M.A.C. Tribunal, Vadodra,