

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

Present : Hon'ble Mr. Justice A.K. Chatterjee, Vice-Chairman
Hon'ble Mr. M.S. Mukherjee, Administrative Member

M.A. No. 26 of 1997
(O.A.1032 of 1996)

Union of India & Ors.
(Eastern Railway)

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Applicants

-vs-

Ramkripal & Ors.

.....

Respondents

For Union of India : Mr. C. Samaddar, counsel
(E.Railway)

For respondents : Mr. B. Mukherjee, counsel
(Applicants in O.A.)

Heard on : 4.2.1997

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Order on : 14.2.1997

O R D E R

A.K. Chatterjee, VC

In O.A. 1032 of 1996, an interim order was made on 20.8.96 on an unlisted application, but in presence of the Ld. Counsel for the respondents, which was slightly altered on 29.8.96 again in presence of the Ld.Counsel for the respondents to rectify a typographical error and the order as it stood after such rectification was ^{that the} /Sr.Diesel Assistant and Diesel Assistant shall not be allowed to officiate as Shunter till the date fixed i.e. till 24.9.96, which was extended from time to time. Now the ^{instant} / Misc.Application has been filed by the respondents for vacating and/or modifying the interim order on the ground that on 8.3.96, promotion-cum-posting order was issued allowing 89 Sr.Diesel Assistants and Diesel Assistants to the post of Shunter at different Stations in the concerned Division and out of them, 62 had joined on different dates up to 10.9.96. A list of 62 Sr.Diesel Assistants

and Diesel Assistants, who have so joined have been annexed to the misc.application indicating that four of them had joined in September between 1st September and 10th September and others had joined in the month of August itself. Now, it has also been stated in the application as well as submitted by the Ld.Counsel for the respondents of the O.A. that the copy of the order dt.29.8.96 was received by him only on 3.9.96, which was immediately communicated to the Sr.Law Officer of the respondents in Calcutta, who, in turn, despatched it to the concerned Division, but before it could reach, 62 Sr.Diesel Assistants and Diesel Assistants had already joined as Shunter. It was also submitted that after the receipt of the order of this Tribunal by the concerned Division, no other Sr.Diesel Assistant or Diesel Assistant was allowed to join as Shunter. In the Misc.Application, it is also stated that unless the interim order is vacated or if the respondents are restrained from giving further promotion, the movement of train would badly suffered. The opposite parties to the Misc.Application, who are the applicants of O.A. have filed a reply, wherein they, inter alia, contend the illegality of the promotion order.

2. Hearing the Ld.Counsel for both the parties, we find no reason to hold atleast at this stage that there has been any wilful contravention of the order of the Tribunal, but in fact, a communication gap was responsible for promotion during the period 29.8.96 and the date on which the order was received by the concerned Division. In such situation, the order may be suitably modified so as not to affect the employees who have already been promoted.

3. At the time of hearing, the Ld.Counsel for the official respondents, however, did not press for vacating the interim order on the ground that it would affect smooth movement of trains.

4. For the reasons indicated above, the interim order passed on 20.8.96 as corrected on 29.8.96 is modified to the effect that the promotion of 62 Sr. Diesel Assistants and Diesel Assistants to the post of Shunter as detailed in the Annexure to the Misc. Application, marked RR shall abide by the result of the O.A., but no further promotion shall be given until further order.
5. M.A. 26 of 1996 is accordingly disposed of. No costs.

M.S. Mukherjee
(M.S. Mukherjee)
Member (A)
14/2/1997

A.K. Chatterjee
(A.K. Chatterjee)
Vice-Chairman
14.2.97