

(17)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Case No:

199

T.A. No: 522/87.

DATE OF DECISION 26.9.1991

Shri B.B. Tayade and another Petitioner

Shri L.M. Nerlekar Advocate for the Petitioners

Versus

Union of India and others. Respondent

Shri V.G. Rege. Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice U.C. Srivastava, Vice Chairman.

The Hon'ble Mr. A.B. Gorthi, 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 ?

(U.C. SRIVASTAVA)
VICE CHAIRMAN.

mbm*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Transfer Application No. 522/87

Shri B.R. Tayade and another. Applicants.

V/s.

Union of India and others. ... Respondents

CORAM: Hon'ble Shri Justice U.C. Srivastava, Vice Chairman
Hon'ble Shri A.B. Gorthi, Member (A).

Appearances:

Applicant by Mr. L.M. Nerlekar

Respondents by Mr. V.G. Rege.

JUDGEMENT

Dated: 26.9.1991

¶ Per Shri U.C. Srivastava, Vice Chairman ¶

Mr. Nerlekar states that in this case he is representing Applicant No.1 and not Applicant No.2. No one has put in appearance on behalf of applicant No.2, None appears on behalf of him to day also. It appears that applicant No. 2 is no longer interested in the application. As such this application shall be treated to be an application on behalf of applicant No.1 and will be deemed to have been dismissed so far as applicant No. 2 is concerned.

2. The applicant who was working as Class II Junior Scale Officer since 1.6.1974, after completion of 5 years he became entitled for promotion to the Senior Scale Class I Officer. This promotional post is a non-selection post. It appears that no promotion during this period was made while according to the learned counsel for the applicant who has placed before us the rules printed by the Railway administration that at least one more person who was junior to the applicant viz B.R. Patil was promoted in the year 1980. But the applicant was not promoted even though the rules that was existing before 1979 required that 5 years for the purpose of promotion and after 1979 it was only 3 years

record which was required for perusal. But in the applicant's case neither 5 years recorded nor 3 years recorded were perused. In the mean while in the year 1985 it appears that certain departmental proceedings started against the applicant and a charge sheet of major penalty was issued and ultimately only a minor penalty was given to him that is of withholding of increment for two years effective from 1.6.1981.

3. The grievance of the applicant is that although the charge sheet was issued in respect of the major penalty but ultimately the department itself found that it was not the case where major penalty should be given to the applicant, he was only given a minor penalty and even prior to the penalty in case of promotion it could have been considered, but was not considered. After 1983 it appears that the DPC met, but the applicant was not found fit for promotion, but 6 months thereafter another committee met and recommended the applicant may be placed on trial basis for 6 months. The applicant was placed on trial basis for 6 months, but it appears that the Officer concerned gave some report which was not favourable to the applicant so his promotion was not continued. The applicant contends that the applicant is a member of SC community was entitled to various promotions and other benefits in view of the various directions issued by the Government of India which were given a go-bye, by the respondents. In case there was some short comings to the applicant the Government of India order in respect of Members of SC community, the applicant even then would have been promoted and the minor penalty would not have stood in his way. But even then this was not done. It may be true that the case of the applicant could have been considered for promotion earlier that is from the year 1977 to 1981 and the applicant could have been given

benefit of the member of the SC community but his case was not considered. In case his case would have been considered during this period it was possible that the applicant would have got promotion to a senior post which would not have led to his reversion from senior post ~~which~~ he was officiating to the junior post which order is under challenge. But subsequently the applicant was not found fit and later on he was placed on trial basis, but the same was also not continued. Even if some injustice has been done to him, but later on he has been failed before the DPC, he cannot get any relief for the period during which he was not considered. Even if some retrospective benefit has to be given to him it cannot be because of the intervening circumstances that the meeting of the DPC in the year 1984 which met and recommended against him. Accordingly no case for grant of any relief has been made out by the applicant who has retired from service in the year 1986 and the application has got to be dismissed. But in view of the fact that if the applicant was not considered within the period ^{in which he should} ~~due to~~ have been considered, it is still open for the Railway administration to grant any relief to the applicant may be by way of re-employment or any other matter which they deem fit. The application is dismissed with these observations. There will be no order as to costs.

transcript
(A.B. GORTHI)
MEMBER(A)

U.C. SRIVASTAVA
VICE CHAIRMAN