

23

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 768/87

~~TRANSMISSION~~

DATE OF DECISION 17.8.1993

P. Gangaram & 2 ors.

Petitioner

M. Sudame

Advocate for the Petitioners

Versus

U.O.I. & Ors.

Respondent

Mr. V N Chandurkar

Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri

Justice M S Deshpande, V.C.

The Hon'ble Shri

M Y Priolkar, Member(A)

1. ~~whether Reporters of local papers may be allowed to see the Judgement ?~~
2. To be referred to the Reporter or not ? *W*
3. ~~whether their Lordships ish to see the fair copy of the Judgement ?~~
4. ~~whether it needs to be circulated to other Benches of the Tribunal ?~~ *No*

W
Member(A)

NS/

2A 2B

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PREScot ROAD, BOMBAY-1

CAMP : NAGPUR

OA No. 768/87

P. Gangaram
S K Gharote
R N Shukla

.. Applicants

v/s.

Union of India through
General Manager, South Eastern Rly.,
Nagpur & 6 ors. .. Respondents

Coram: Hon. Shri Justice M S Deshpande, V.C.
Hon. Shri M Y Priolkar, Member (A)

JUDGMENT:

DATE : 17-8-1993

(Per: M Y Priolkar, Member (A))

This OA had been filed by the applicants against their proposed reversion from the post of office superintendent Gr.I to the post of office superintendent Gr.II, consequent on revision of the seniority list whereby the applicants were placed below the respondents nos. 4 to 7. By an interim order dated 25.11.1987, this Tribunal restrained the respondents 1 to 3 from reverting the applicants. The applicants accordingly continued to work as Office Superintendent Gr.I till their retirement from service on superannuation between 1988 and 1990. The only prayer that subsists in this application is that the applicants be declared as senior to respondents nos. 4 to 7 and their promotion as Office Superintendent Gr.I be ante dated to 1.1.1984 viz., the date when some of the respondents claimed to be their juniors were promoted, with consequential benefits.

[Handwritten signature]

2. The applicants were initially appointed as junior clerks in the Accounts group of the Civil Engineering Department of Nagpur Divisional Office of the South Eastern Railway, whereas respondents nos. 4 to 7 were initially appointed as junior clerks in the Stores group of the same office. Accounts group and stores group were separate seniority and promotional units and the basis for further promotion to non-selection grades was the principle embodied in Estt. serial no.300/63 viz., position in the integrated seniority list of staff who belonged to the different promotional units, their relative seniority being determined by the length of non-fortuitous service in the grade, subject to the maintenance of inter se seniority of those belonging to the same promotional group.

3. The applicants contend that in the various combined seniority lists of the ministerial staff circulated by the respondents from time to time, the applicants were shown as senior to the respondents nos. 4 to 7 until for the first time the combined seniority list of Head Clerks was circulated by order dated 26.10.1987 showing promotions and seniority of respondents nos. 4 to 7 in the grade of Head Clerks with effect from 24.10.1975. This is the order which is impugned in the present application.

4. It is clear that but for this order giving proforma seniority to the respondents nos. 4 to 7 as Head Clerks from 24.10.1975, the applicants would have continued to remain senior to the respondents nos. 4 to 7 in the seniority list of Head Clerks. We have looked into the justification for this proforma seniority with retrospective effect from 24.10.1975 ordered on 26.10.1987.

This was done based on higher seniority as Senior Clerks earlier given to the respondents purportedly in compliance with the decision of the Chief Personnel Officer dated 2.9.1975 on a representation made by respondent no.7 Shri Thakur that he was senior to one Ramana who was shown as senior to Thakur in the seniority list of Senior Clerks of the Stores group. The applicants have produced copies of the correspondence exchanged between the Divisional Office and the office of Chief Personnel Officer in this connection from which it is clear that the local officers had made an error in assigning higher seniority to Thakur in the seniority list of senior clerks in the Stores group following this representation. The decision of the Chief Personnel Officer was that Thakur was senior to Ramana and that Ramana should be brought down in that seniority list below Thakur. Instead, the local officers had wrongly given seniority to Thakur above Ramana. The other respondents, being senior to Thakur, were also consequently given seniority above Thakur. Thus all the respondents came to be wrongly assigned higher seniority above Ramana whereas if the decision of the Chief Personnel Officer was correctly implemented, only Ramana's seniority would have been brought down below that of the respondents, maintaining the seniority of the respondents at the then existing level. This error does not seem to have been rectified even after it was specifically pointed out by the Headquarters Office.

5. Thus, it is only as a result of the higher seniority above Ramana wrongly assigned to respondents nos. 4 to 7 in the grade of senior clerks that these respondents came to be promoted earlier than they should have been to the further higher grades of Head Clerk, Office Superintendent Gr.II and Office Superintendent Gr.I.

Evidently, the applicants would have been promoted earlier to the higher posts than the respondents on the basis of integrated seniority lists but for this higher seniority wrongly assigned to the latter. We, therefore, find considerable merit in the specific prayer of the applicants that while they were promoted on ad hoc basis in August 1985 to the post of Office Superintendent Gr.I, respondents nos. 5 and 6 ~~also~~ would have been clearly junior to them but for this wrong seniority assigned, were promoted earlier from 1.1.1984 to this grade on regular basis and, therefore, the promotion of the applicants should also be antedated to 1.1.1984. All the three applicants have already retired and out of the four respondents, two have retired and the remaining two are stated to be due for retirement shortly. Apart from these seven persons, all of whom have held till retirement or are holding posts of office superintendent gr.I, nobody else appears to be affected by this seniority dispute. In the circumstances, we do not think it necessary to direct a wholesale revision of seniority lists of senior clerks, head clerks and office superintendents gr.II and gr.I by rectifying the error committed in implementing the Chief Personnel Officer's decision dated 2.9.1975 on Thakur's representation vis-a-vis Ramana. Although promotions of respondents to various grades have been wrongly ordered earlier than the applicants based on the higher seniority incorrectly assigned to them, they have actually worked on the higher posts for considerably long periods, and it is again not considered necessary to deprive them of any benefits which have already accrued to them by virtue of actual service in the higher grades. We would only direct that the applicants' promotion to the grade of Office Superintendent Gr.I be antedated to 1.1.1984 instead of the various dates in August 1985 on which they were

28

5

actually promoted and they be given consequential benefits including arrears of wages, and pension and refixation of pensionary benefits. With this direction this O.A. is finally disposed of with no order as to costs.


(M Y Priolkar)
Member (A)


(M.S. Deshpande)
Vice Chairman

trk