

(8)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No: 136/87

~~Transfer Application No:~~

DATE OF DECISION 6-8-93

Shri Pandurang Balu & Another Petitioner

Shri D.V.Gangal Advocate for the Petitioners

Versus

Union of India through the Respondent  
General Manager, C.Rly.Bombay

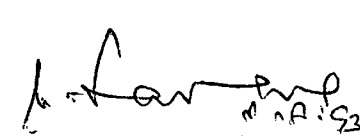
Shri J.G.Sawant Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman

The Hon'ble ~~Shri~~ Ms.Usha Savara, 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 ?
- } NC

  
(Ms.Usha Savara)  
Member(A)

NS/

(9)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A. 136/87

Shri Pandurang Balu &  
Another

.. Applicants

vs

Union of India through  
The General Manager,  
Central Railway  
Bombay and others.

.. Respondents.

Coram: Hon'ble Mr. Justice M.S.Deshpande, Vice-Chairman

Hon'ble Ms. Usha Savara, Member (A)

Appearance:

Shri D.V.Gangal for the  
applicant.

Shri J.G.Sawant for the  
respondents.

Dated: 6-8-93

Judgement

(Per Hon'ble Ms.Usha Savara, Member(A))

The application has been filed impugning letter dated 22-3-86 by which the applicant, Shri Pandurang Balu was informed by the Works Manager, Kurudwadi, that the sanction has been received for Air-Compressor Attendant, Basic Fitter, Lister Driver Grade 210-290(RS) in Mill Wright Shop to seek promotion as Fitter, Motor Mechanic. This letter also clarified that as Shri Sheikh Mahibub Bandagi was promoted as Lister Truck Driver with effect from 15.4.79, he was senior to the applicant who was promoted as Air Compressor Attendant with effect from 1.9.81 only.

In short the case of the above applicants is that the post of Lister Truck Driver and Motor Mechanic were ex-cadre posts and the same have been converted into cadre posts without authority of law. As a result, two employees, Shri Manohar Laxman and Shri Sheikh Bandagi have been granted seniority and have received promotion over the applicant in the Mill Wright Shop. The learned

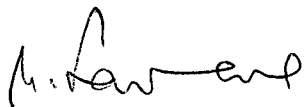
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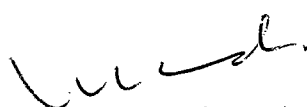
counsel for the applicants, Shri Gangal submitted that there are various shops in the Mechanical Workshop at Kuruduwadi, and an employee in a particular shop cannot cross over to another shop as every shop is its own seniority unit. Seniority is the major criterion for promotion, and therefore, when the respondents brought the two respondents to the Mill Wright Shop the rights of the applicants were adversely affected. Both respondents became senior to the applicants and superseded them. Shri Gangal further urged that since the introduction of these two posts in the Mill Wright Shop, it was incumbent upon the Administration to impart training to the eligible staff to operate on these two posts. Various representations made to the Authorities have had no effect and hence the applicants have filed this O.A. as a final measure. The respondents have filed a reply denying the allegations of favouritism towards the 2 respondents. It is the case of the respondents that the post of Lister Truck Driver and Motor Mechanic in Progress Section had no avenue of promotion. The matter was discussed with the recognized Labour Unions, and a proposal was submitted to the Competent Authority for sanction, which was given on 3.9.'83, (Ex.B). Shri Sawant learned counsel for the respondents submitted that Shri Manohar Laxman, Motor Mechanic, is senior to the applicants in every respect. Shri Bandagi is also senior as he was promoted earlier as Lister Truck Driver. In the circumstances, the applicants cannot claim that their rights have been adversely effected. In any case, having a driving license is essential for the post of Lister Trucks Driver, and as neither of the applicants have a driving license, the question of imparting training does not arise.

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We have heard the learned counsel at length. The short point is whether any illegality has been committed by the administration. It is not the case of the applicants that their chances of promotion are finished because of inclusion of the posts of Lister Truck Driver <sup>and</sup> ~~to~~ Motor Mechanic in Mill Wright Shop. It is their case that the chances of promotion have been reduced. It is an accepted fact that mere chances of promotion are not conditions of service and the fact that there was reduction in the chances of promotion did not tantamount to a change in the conditions of service. The change in the cadre was neither arbitrary nor mala-fide. Therefore, it is not open to challenge. This is the view taken by Hon'ble Supreme Court in the case of K.Jagdeesan vs Union of India Ors. 1 LLJ 1990 495.

In the circumstances, the application must fail. The O.A. is dismissed, but there is no order as to costs.

  
(Ms. Usha Savara)  
Member(A)

  
(M.S. Deshpande)  
Vice-Chairman