

(10)  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A. NO: 383/87

199

T.A. NO:

DATE OF DECISION 4.2.93

K W Rokade

Petitioner

Mr. E.K. Thomas

Advocate for the Petitioners

Versus

G M C Rly & Another

Respondent

Mr. S C Dhawan

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. S.K. Dhaon, Vice Chairman

The Hon'ble Mr. 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 ?

*Suy*  
v.e.

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(11)

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

O.A.NO. 383/87

Keshav Wamanrao Rokade  
3 Rawoobai Chawl  
Boudha Colony  
CT Road  
Kurla (W)  
Bombay 400070

Applicant

V/s

1. General Manager  
Central Railway  
Bombay V T
2. Chief Workshop Manager  
Central Railway  
Parel, Bombay 12

Respondents

Coram: Hon. Shri Justice S K Dhaon, Vice Chairman  
Hon. Ms. Usha Savara, Member (A)

APPEARANCE:

MR. E K THOMAS  
Counsel  
for the applicant

Mr. S C Dhawan  
Counsel  
for the respondents

ORAL JUDGMENT:

DATED: 4.2.93

(PER: S K DHAON, VICE CHAIRMAN)

The communication dated 4.10.86 issued by the Additional C.M.E. PR from the Central Railway to the applicant that his request for fixation of seniority in the Clerical grade could not be acceded to is being impugned in the present application.

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2. We may examine the contents of the impugned communication straightaway as the material facts are contained therein. The applicant was appointed as a Khalashi on 21.7.67. After passing the test for the post of material checker, scale Rs. 105-130, he was posted as a material checker in the said grade with effect from 21.2.73 on Rs.105 per month. He applied for the post of Typist, grade Rs.110-180 and passed the test held on 16.2.73 and 11.4.73. He was posted as Hindi Clerk-cum-typist in the grade of Rs.110-180 on Rs.110 per month with effect from 16.3.73. The post of a typist was in the higher grade than that of the material checker. The grade of material checker was upgraded from Rs.105-130 to Rs.110-180 with effect from 1.10.72 and one Mr. Dubey senior most material checker was given the upgraded post. The applicant was given arrears of pay for actually looking after the duties during the period with effect from 21.2.73 to 21.4.73. He did not represent then for being considered as a member of the Clerical cadre. A seniority list of clerical staff was published by Office Memorandum dated 15.3.78. The applicant was not shown in that list. He did not make any representation. Upgradation of clerical staff was issued by Railway Board with effect from 1.10.81. A selection was held for filling up the post of clerical staff in May 1982. The applicant had represented. His representation was not considered as he was in Typing cadre. Applicant was also informed that if he felt interested to go over to the clerical cadre he would be required to undergo a suitability test and his seniority would be fixed from the date of passing of the test as a special case.

3. The crucial question of fact to be decided by us is whether there were two cadres viz., the cadre of material checker or clerk and the cadre of a typist. The original records have been produced before us by Shri S C Dhawan, the learned counsel for the respondents.

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We have perused the same. The contents of the impugned communication, as catalogued by us above, stand corroborated by the contents of the record which is before us. We also find that the department maintained two separate lists, one for the clerks and the other for the typists. The applicant did not figure amongst the clerks. However, his name was constantly shown amongst the typists. These records were maintained for the purpose of showing the seniority inter-se of those in clerical cadre and those in typist cadre. We are, therefore, satisfied that the applicant in 1973 joined the cadre of typists and therefore he ceased to be a member of the cadre of clerks. If that be the position, no fault can be found with the impugned communication.

4. Reliance has been placed by the learned counsel for the applicant on a notice dated 21.9.1985 issued by Addl. C.M.E. PR. The subject of this notice is the suitability test of clerks for promoting as senior clerks. At serial no. 10, the name of the applicant finds place. On the basis of this notice it is urged that the department itself considered the applicant as a clerk on 21.8.1985. In the reply filed it has been stated that the applicant's name crept in because of some error. The material on record, as produced before us, indicates that some error did creep in when the notice dated 21.8.1985 was issued. There was no justification for including the name of the applicant in the aforesaid list.

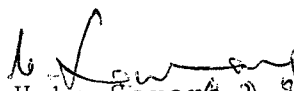
5. Learned counsel next urged that persons similarly situated as the applicant have been allowed to go back to the original cadre as a clerk, though this relates to Matunga Workshop. One of the orders has also been produced and we have perused the same. It appears that in the Matunga Workshop there was a general cadre of clerks, some clerks were asked to perform the job of typists. However, there was no change in their emoluments. It appears that it was not intended in the Matunga Workshop to create a separate cadre of a typist. Therefore, those persons who were asked to perform the job of a typist were permitted to be treated as clerks. These examples are not apposite.


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6. Shri Dhawan has stated before us that now a decision has been taken that no distinction would be drawn between general typists and hindi typists-cum-clerks. He has also stated that the applicant would be treated as a typist and his seniority as a typist would be computed from the date of his entry in the cadre of typists viz., 1973.

7. This application has no merit and is dismissed but without any order as to costs.

  
( Usha Savarda ) 2.93  
Member(A)

  
( S K Dhaon )  
Vice Chairman

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