

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

Tr.348/87

Shri Ramesh Gulabrao Darwade,
Chargeman Grade 'A' in
South Eastern Railway,
Thaware Nagar,
Post Office-Jaripatka,
Nagpur.

.. Applicant

vs.

1. General Manager,
South Eastern Railway,
Garden Reach Road,
Calcutta.
2. Dy.Chief Mechanical Engineer,
South Eastern Railway,
Motibag Workshop,
Post office Bezanbag,
Nagpur.
3. Assistant Works Manager,
South Eastern Railway,
Motibag Workshop,
Post ~~Bag~~ Office Bezanbag,
Nagpur.
4. Union of India
through
General Manager,
South Eastern Railway,
Calcutta.
5. Lakhanlal Dube,
C/o.Jaganath Lal,
Ambedkar Road,
Laskaribag,
Nagpur.

.. Respondents.

Coram: Hon'ble Member(J) Shri M.B. Mujumdar

Hon'ble Member(A) Shri M.Y. Priolkar

Appearances:

1. Mr. Mohan Sudame
Advocate for the
Applicant.
2. Mr. V.G. Rege,
Advocate for the
respondents.

TRIBUNAL'S ORDER

Date: 11-1-1989

Heard Mr. Mohan Sudame, advocate for the
applicant and Mr. V.G. Rege, advocate for the respondents.
Though the respondents have filed their reply to the
main petition there is no formal order admitting the
application. We, therefore, now admit the application.

2. The applicant has filed Misc. Petition

No.555/88 for certain interim reliefs. The facts show that by order dtd. 20-12-1984 the applicant was promoted as Chargeman Gr.'A' from the post of Chargeman Gr.'B', with effect from 1-1-1984. However, that order was cancelled by an order dtd. 16-4-1985. The applicant challenged that order by filing Writ Petition No.762/85 in the Nagpur Bench of the Bombay High Court. On 23-5-1985 the High Court issued notices before admission to respondent Nos.2 & 3 returnable on 2-5-1985 and in the meanwhile status quo was directed to be maintained. Thus the applicant continued to work as Chargeman Gr.'A'.

3. The respondents thereafter filed C.A. No.1621/85. It was rejected on 17-6-1985. But it was wrongly thought by the respondents due to the letter from their advocate that the Writ Petition was rejected. Probably the applicant was also under the same impression. However, subsequently, the High Court clarified that the Writ Petition was not rejected by the order dtd. 17-6-1985 but what was rejected was CA 1621/85. However, in the meanwhile by an order dtd.2-7-1985, the applicant was reverted from the post of Chargeman Gr.'A' to the post of Chargeman Gr.'B'. After the clarification from the High Court, again he was promoted as Chargeman Gr.'A' with effect from 30-3-1988.

4. Now the applicant has filed Misc.Petition No.555/88 praying that the respondents No.2 to 3 be directed to make payment of special pay and planning allowance attached to the planning section to the applicant for the period during which the applicant was working in that department and for further directing the respondents to pay him the arrears arising out of fixation as per the order dt. 30-3-1988.

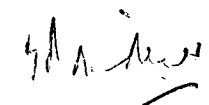
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5. Mr.Rege submitted that the applicant has not given the arrears from 2-7-1985 to 30-3-1988 because the applicant has not actually worked in that post viz. Chargeman Gr.'A'.

6. But from the facts narrated by us, the respondents' order dtd. 2-7-1985 reverting the applicant from the post of Chargeman Gr.'A' to Gr.'B' was prima-facie erroneous. The error was committed because of the wrong impression that the Writ Petition filed by the applicant was rejected. Respondents have no doubt corrected the error by an order dtd. 30-3-1988 by promoting the applicant to the post of Chargeman Gr.'A' In these circumstances we are of the view that the respondents shall ~~not~~ have to pay the arrears according to rules to the applicant for the period 2-7-1985 to 30-3-1988.

7. We,therefore, direct the respondents to pay the arrears to the applicant according to the rules for the period from 2-7-1985 to 30-3-1988 within one month from the date of receipt of a copy of this order. This order will be subject to the final result of this case. Misc.Petition No.555/88 is disposed of.

8. Case is adjourned to 29-3-1989 for directions. The case will be fixed for final hearing during the Nagpur sitting of this Bench. A copy of this order be given to the applicant's advocate for serving on the applicant.


(M.Y.PRIOLKAR)
Member(A)


(M.B.MUJUMDAR)
Member(J)