

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

NEW BOMBAY BENCH

~~QXXXXX~~

198

T.A. No. (N) 166/87

DATE OF DECISION 1.11.1988All India Station Masters Association.

Petitioner

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Shri P.N.Chandurkar

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.B.Mujumdar, Member(J)

The Hon'ble Mr. P.S.Chaudhuri, Member(A).

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

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT SITTINGS AT NAGPUR

Transferred Application No.(N)166/87

All India Station Masters Association,
Head Office at Delhi,
through Divisional Secretary
Shri A.G.Mategaonkar,
Nagpur

.. Applicant

V/s.

1. The Divisional Railway Manager,
Central Railway,
Nagpur.
2. The General Manager,
Central Railway,
Bombay V.T.
3. Union of India
through General Manager,
Central Railway,
Bombay V.T.

.. Respondents.

Coram: Hon'ble Member(J), Shri M.B.Mujumdar
Hon'ble Member(A), Shri P.S.Chaudhuri

Appearance:

1. None present for applicant.
2. Shri P.N.Chandurkar, advocate
assisted by Smt.Sharda S.Wandile
for the respondents.

ORAL JUDGMENT:-

Dated: 1.11.1988

ØPER: Shri M.B.Mujumdar, Member(J)Ø

After awaiting for the applicant Association's Divisional Secretary and his advocate upto 3.50 p.m. and after hearing Shri P.N.Chandurkar, assisted by Smt.Sharda S.Wandile, learned advocate for the respondents, we are delivering the following judgment on merits.

2. The applicant Association through its Divisional Secretary, Shri A.G.Mategaonkar, had filed Writ Petition No.1958/84 in the High Court of Judicature at Bombay, Nagpur

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Bench, ~~Jaipur~~ on 31.8.1984 and it is transferred to this Tribunal under Section 29 of the Administrative Tribunals Act, 1985.

3. In the petition two prayers are made. The first is for directing Respondent No.2 to implement the decisions of the Railway Board at Annexures 'A' and 'B' forthwith or within a period of one month and for directing the respondents to grant all financial and other reliefs to all the employees treating their date of upgradation/ promotion as 30th September, 1983. The second prayer is for awarding exemplary cost to the applicant Association. The respondents ^{have} filed their written statement on 2nd May, 1985 when the matter was pending in the High Court. They ^{have} submitted that the directions given in the Railway Board's Orders which are annexed as Annexures 'A' and 'B' are fully implemented by them. They have also clarified exhaustively how the orders are implemented.

4. Thereafter the applicant Association filed an amendment application. By our order dated 21.6.1988 we allowed the amendment application.

5. We may point out that the Railway Board's order dated 29.7.1983(Annexure-A) is regarding restructuring certain Group 'C' and 'D' cadres.. As certain points were raised regarding the implementation of the instructions given in that order, the Railway Board clarified these points and these clarifications are given in Annexure 'B' of the application. Para 6 of Annexure 'B' reads as under:-

"...The intention behind the instructions contained in para 3.1 of Board's letter of 29.7.83 is that in case where railway employee become eligible for more than one promotion in terms of the restructuring orders, the modified selection procedure as

outlined vide para 3.2 will not apply to any of these promotions in case of more than one promotion, the normal selection procedure as per existing orders will apply to all the promotions"


6. In view of the stand taken by the respondents that the Railway Board's order regarding re-structuring of certain Group 'C' and 'D' cadres are fully implemented, the applicant Association has challenged the constitutionality of the clarification given in para 6 of Annexure 'B', which we have quoted above. By adding Clause A-1 in the prayer clause the applicants have contended that the clarification or directions given in para 6 of Annexure-B are illegal, ultra vires and un-constitutional. They have also prayed for some consequential reliefs.


7. But what the Railway Board has clarified in para 6 of Annexure-B is that, where a Railway employee become eligible for more than one promotion in terms of the restructuring, the modified selection procedure as laid down in para 3.2 of the Railway Board's order dated 29.7.1983 at Annexure 'A' will not apply to any of these promotions. In fact, if we read para 3.1 of the Railway Board's order dated 29.7.1983 at Annexure 'A' it is making some difference right from the beginning between candidates who would get only one promotion as a result of the restructuring and others who would get two promotions as a result of the restructuring.. The ^{impugned} order provides that in case of more than one promotion the normal selection procedure as per existing orders will apply to all the promotions. As pointed out in para 3.2 at Annexure 'A' the modified selection procedure was resorted to by the Railway Board as a one time exception

by way of special dispensation. It was in fact a concession given to certain Railway employees for getting promotion on the basis of the instructions given in Railway Board's letter dated 29.7.1983. In view of this position, we do not think that the clarification given in para 6 of Annexure 'B' to the application is in any way inconsistent with the instructions given in the Railway Board's order dated 29.7.1987 nor are we in a position to hold that the clarification in the impugned para 6 is in any way illegal or un-constitutional as claimed by the applicant Association.

8. In newly added para 8(A) of the application the applicant Association has submitted that in view of the restructuring of the cadre there is no question of treating it as promotion and therefore, the policy to treat restructuring as promotion is illegal and bad in law. In Transferred Application No.4/88 filed by the present applicant and three others against the present respondents (decided on 9.8.1988) it was argued that restructuring did not amount to promotion and therefore, pending departmental proceeding should not stand in the way of giving effect to ungradation as a result of restructuring. But we did not agree with this line of argument in that case and we have held that restructuring in accordance with the Railway Board's order dated 29.7.1983 was by way of promotion or promotions.

9. We, therefore, find that the application is devoid of any merit and hence dismiss it with no order as to costs.


(P.S. Chaudhuri)
Member(A)


(M.B. Mujumdar)
Member(J)