

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI
NEW BOMBAY BENCH~~XXXXXX~~
T.A. No. 446/87

198

DATE OF DECISION 12-7-1988

Smt. Lalita Ramchandran

Petitioner

Shri K.T. Wadhwa

Advocate for the Petitioner(s)

Versus

Union of India & anr.

Respondent

Shri P.R. Pai

Advocate for the Respondent(s)

CORAM

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

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

1. Whether Reporters of local papers may be allowed to see the Judgement? *Ys*
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement? *N6*
4. Whether it needs to be circulated to other Benches of the Tribunal?

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

Tr.446/87

Smt.Lalita Ramchandran,
Shiv Dharshan,3rd Floor,
Nahur Road(W),
Bombay - 400 020.

.. Applicant

vs.

1. The Union of India
through
The General Manager,
Central Railway,
Victoria Terminus,
Bombay.
2. Shri V.S.Mahajan,
Typist
Office of Chief Engineer
(Construction),Central Rly.,
New Administrative Office Bldg.,
D.W.Road,Bombay - 400001. .. Respondents

Coram:Hon'ble Member(A)Shri P.Srinivasan
Hon'ble Member(J)Shri M.B.MUJUNDAR

Appearances:

1. Shri K.T.Wadhwa
Advocate for the
applicant.
2. Shri P.R.Pai,
Advocate for
Respondent No.1
3. Shri V.S.Mahajan
Respondent No.2
in person.

ORAL JUDGMENT
(Per P.Srinivasan,Member(A))

Date: 12-7-1988

This is a transferred application originally
filed as Civil Suit No.689/77 before the City Civil Court
at Bombay.

In this application the applicant who is
currently working as Senior Stenographer in the office
of the Chief Engineer(Construction)Central Railway at
Bombay complains that Respondent No.2 Shri V.S.Mahajan
was wrongly placed above her in the seniority list of
Junior Typist and as a result the applicant who was
initially promoted to the post of Senior Typist in
February,1970 was wrongly reverted to her earlier post
of Junior Typist on 22-10-1970 to accommodate Shri Mahajan

R.S.V

...2/-

in the higher post. The applicant and respondent No.2 Shri Mahajan were selected by the Railway Service Commission(RSC) in 1963 for appointment as Junior Typist. In the merit list prepared by the RSC the applicant was at Sr.No.99 while Shri Mahajan was at Sr.No.36. The applicant was posted as Junior Typist in the Head Quarters office at Bombay while Shri Mahajan was posted in the Construction Organisation at Jabalpur. The applicant joined duty at Bombay on 12-8-1963 while Shri Mahajan joined duty at Jabalpur on 16-2-1963. In 1964 Shri Mahajan made a request that he having secured higher merit ranking in the RSC selection and having, in his application sought appointment in the Head Quarters office, he should be posted in the Head Quarters. He also stated that his mother was seriously ill and so it was necessary that he be posted in Bombay. ^{When} He was transferred to Bombay in 1964, He was shown ~~as~~ junior to the applicant in the grade of Junior Typist because he was made to take the bottom seniority on the date of his transfer to Bombay. The applicant on the basis of her seniority was promoted as Senior Typist on 10-2-1970. But, in the meanwhile, Mahajan made representations that he should be given seniority according to the ranking obtained by him in the RSC selection. The General Manager eventually accepted his claim and gave him a position of seniority which was above that of applicant. Being senior he had to be promoted as Senior Typist. Therefore the applicant who was promoted in a temporary capacity on 10-2-1970 was reverted back to her earlier post of Junior Typist on 22-10-1970. ~~as~~ It is this order that the applicant has challenged in the application.

Shri K.T.Wadhwa, learned counsel for the applicant submits that since Mahajan came on transfer to

R.S.C.

Bombay from Jabalpur at his own request in 1964 his seniority should have reckoned only ^{if from} in 1964. He should not be given seniority on the basis of his ranking ⁱⁿ on the merit list in 1963. The General Manager had no power to give Mahajan a higher seniority even though he came to Bombay at his own request.

Shri P.R.Pai for the respondent No.1 submitted that when he applied for the post of Junior Typist to the RSC Mahajan had clearly indicated that he wanted a posting at the Head Quarters. He secured higher rank than the applicant and his claim for appointment in the Head Quarters office was better than ~~that of~~ the applicant. Inspite of this he was posted in Jabalpur in Construction organisation. When he represented that he was entitled to be posted in the Head Quarters Office at Bombay by virtue of the rank in the merit list, along with the personal reason why he should be so transferred, the respondents agreed to transfer him to Bombay. Though initially Mahajan was given seniority only from 1964, on his posting to Bombay, subsequently, the authorities felt that he was entitled to seniority according to his ranking by the RSC, ^{if it was} because ^{of} the respondent railway which sent him to Jabalpur there being no vacancy at that time in Bombay. The General Manager therefore ~~has~~ accepted the claim of Mahajan and gave him seniority according to his ranking in the merit ^{list}. There was nothing wrong in this. He thus being senior temporary promotion should have gone to him and not to the applicant. That was why the applicant was reverted. The applicant has since been promoted as Senior Typist in 1976 in the next available vacancy.

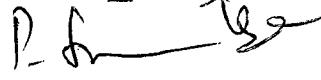
Respondent No.2 who was also present in the Court submitted that on his initial appointment he should have been posted to the Head Quarters office at Bombay because of his ranking. The respondents

P.R.Pai

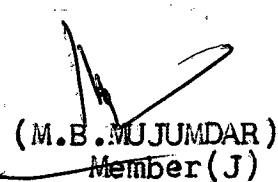
persuaded him to go to Jabalpur in the public interest. It was his rightful claim that his seniority in the Head Quarters office should be in accordance with his ranking by the RSC. He had not filed any reply in the City Civil Court or in the Tribunal but this was the argument presented by him before us today.

After careful consideration we are of the opinion that this application should fail. We are satisfied that in the recruitment made in 1963 respondent No.2 placed higher in rank. We are also satisfied from the facts narrated by all the parties that respondent No.2 had a right to be posted in Head Quarters because of his higher rank. The post in Jabalpur was a temporary construction organisation. Therefore when Mahajan was transferred to Bombay to the Head Quarters office to which he should have been posted earlier, he was rightly given seniority as if he had worked in the Head Quarters office from the beginning. We do not find anything illegal in the action of respondent No.1 granting respondent No.2 seniority in the manner we have already explained.

In view of the above the application is dismissed. Parties to bear their own costs.


(P. SRINIVASAN)

Member(A)


(M.B. MUJUMDAR)
Member(J)