

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~NEW BOMBAY BENCH~~
NEW BOMBAY BENCH

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198

T.A. No. 42/87

DATE OF DECISION 8.1.1988Mr. S.I. Shaikh Ahmed & another Petitioner(s)Mr. D.V. Gangal Advocate for the Petitioner(s)

Versus

Union of India and another RespondentMr. V.G. Rege Advocate for the Respondent(s)

CORAM:

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

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

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
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? No

[Signature]
8/1/88

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400 614

TR.No. 42/87

1. Mr. S.I.Shaikh Ahmed
R/O Barsi Naka, Kurduwadi
2. Mr. J.T.Ghadge
R/O 110 Modikhana,
Solapur

APPLICANTS

V/S.

1. Union of India
through
The Divisional Railway
Manager, Central Railway,
Solapur

RESPONDENTS

CORAM : Hon'ble Member (A) S.P.Mukerji
Hon'ble Member (J) M.B.Mujumdar

APPEARANCE :

Mr. D.V.Gangal
Advocate
for the Applicants

Mr. V.G.Rege
Advocate
for the Respondents

JUDGMENT

Dated: 8.1.1988

(PER: Hon'ble Member (A) S.P.Mukerji)

In this Suit for Declaration and Injunction filed on 15.9.1983 before the Civil Judge, Solapur and transferred to the Tribunal under Section 29 of the Administrative Tribunals Act, ^{the} plaintiffs have challenged the test held on 16.7.1983 and prayed that the test may be declared to be null & void and the results declared on 9.9.1983 of the test and thereby promoting other candidates should be set aside.

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2. The brief of material facts are as follows. The plaintiffs were working as Telecommunications Mechanic (T.M.) in Grade 'B' of Rs.330-480. The next promotion was to be in T.M. Grade 'A' through trade test. The plaintiffs were called for such a test which was held on 16.7.1983 and results were declared on 9.9.1983. Four candidates appeared in the test of whom two were selected and the two plaintiffs were declared to have failed in the test. The plaintiffs have challenged the test on the ground that the Assistant Signal and Telecommunications Engineer (A.S.T.E.) (Construction) who held the test was not authorised to hold the test. They have also alleged that the A.S.T.E.(Con.) was assisted wrongly by the Chief Telecommunications Inspector (CTI) in conducting the test and the respondents were prejudiced against the plaintiffs because of differences. The plaintiffs have also indicated that they are the seniormost and they have been failed out of spite.

3. The defendants have opposed the suit by stating that the Divisional Signal and Telecommunications Engineer (Maintenance) is the competent authority for appointing trade test officers and he had rightly appointed A.S.T.E. (Con.) to hold the trade test. They have denied the allegations of prejudice ~~against the A.S.T.E. and C.T.I.~~ They have indicated that four candidates appeared in the test of whom plaintiff No. 1 was the juniormost and plaintiff No. 2 was the seniormost. They have admitted that the plaintiffs had filed a regular civil suit No. 1045 of 1978 but have argued that it is during the pendency of that suit that plaintiff No. 1 was promoted in 1981 from Grade 'C' to Grade 'B' and therefore the allegation of prejudice because of the pendency of the suit is unwarranted. They have urged that the test was fair and impartial and the plaintiffs had taken many years to pass even the test for promotion to Grade 'B'.