

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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NEW BOMBAY BENCH

O.A. No.
T.A. No.

- 149 of

198
1987DATE OF DECISION 30.12.1987

Shri S.K.Shrisunder

Petitioner Applicant
(Original Plaintiff)

Shri S.R.Atre

Applicant
Advocate for the Petitioner(s)

Versus

General Manager, Central Railway, Respondent
Bombay V.T. and two others.

Shri D.S.Chopra

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. B.C.Gadgil, Vice Chairman.

The Hon'ble Mr. J.G.Rajadhyaksha, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? y3

2. To be referred to the Reporter or not?

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?

(5)

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

Transferred Application No.149/87

Shri S.K.Shrisunder,
Store Department, Bhusawal Unit,
At & Post: Manmad.
Tal. Nandgaon, Dist.Nasik. .. Applicant

v/s

1. General Manager,
Central Railway,
Rail Bhavan,
Bombay V.T.
2. Union of India through
Collector of Nasik.
3. Controller of Stores Department,
Central Railway,
Bombay V.T. .. Respondents

Coram: Hon'ble Vice Chairman B.C.Gadgil.
Hon'ble Member (A) J.G.Rajadhyaksha.

Appearance:

1. Shri S.R.Atre
Advocate
for the applicant.
2. Shri D.S.Chopra
Advocate
for the respondents.

ORAL JUDGMENT

Dated: 30.12.1987.

(PER: B.C.Gadgil, Vice Chairman)

1. Regular Civil Suit No.298/84 of the file of the Civil Judge, Junior Division, Manmad is transferred to this Tribunal for decision. This suit was originally filed in the Court of the Civil Judge, Junior Division, Nandgaon, as a Regular Civil Suit and was numbered there as No.267/81.
2. The applicant (original plaintiff) claims that he is entitled to the promotion to the post of Material Checker and/or Clerk Gr.II. The dispute arises in the following manner. The applicant joined the

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Railway Service in 1971 as a casual khalashi. He was regularised on 18.12.1972. At the stage of pleadings, there was some dispute as to whether the applicant has passed certain tests for promotion to the post of Material Checker and/or Clerk Gr.II. However, at the stage of the arguments it cannot be seriously doubted that in 1975 the applicant appeared for the written test and viva-voce examination for the post of Material Checker and that he failed. Similarly, in the written test and viva-voce examination held in 1978 and 1981 for the post of Clerk Gr.II the applicant failed. However, there was one more written test and viva-voce examination held in 1979 for Material Checker's posts. The applicant's contention is that he passed that test. In the reply (written statement in the suit) the respondents have contended that the applicant has not passed that test. During the course of the arguments it transpired that in the year 1979 the Railway administration held an examination and prepared one panel of six persons and the applicant's name did not appear in that panel. It is on that basis that the respondents contended that the applicant had not passed the said test. However, an additional list of seven more persons was recommended for inclusion in another panel. The name of the applicant appears at serial No.6 in this list.

3. The applicant's contention is that in view of his having passed the written test and viva-voce examination in 1979, he is entitled to be considered for promotion to the post of Material Checker. It appears that the said post of Material Checker is not a selection post but it is an ordinary i.e. nonselection

promotional post to be filled on the basis of seniority-cum-suitability of Class IV persons. It is true that that the panel for selection posts lapses after two years according to Railway Board's instructions. However, the panel for the ordinary promotional posts does not so lapse. The position, therefore, is that in 1979, in all 13 persons were found suitable for promotion to the post of Material Checker. A panel of six was prepared, while a list of seven other persons (which included the name of the applicant) was also prepared. In our opinion the fact that the name of the applicant had been included in the list of suitable persons would mean that he deserves to be promoted whenever his turn would come. We are told that the panel prepared in 1975 has not been exhausted. Obviously, it would be necessary for the Railway administration to make promotions to the posts of Material Checkers on the basis of the panel of 1975. Thereafter, the promotions will be made on the basis of the panel of six persons and then effect will have to be given to the proposed panel of seven persons (in which the name of the applicant appears). In view of this position we pass the following order.

ORDER

The application partly succeeds.

The respondents are directed to pass necessary orders for the promotion of the applicant as Material Checker whenever his turn comes as mentioned in the earlier part of the judgment. It is needless to say that in case the applicant is entitled to get such promotion earlier than to-day, he will get

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it with all the salary and monetary
benefits from that date.

Parties to bear their own costs.

B.C.Gadgil

(B.C.GADGIL)
VICE CHAIRMAN

(S.G.RajadhyaKsha)
(S.G.RAJADHYAKSHA)
MEMBER(A)