

(7)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 195/88

~~Transfer Application No:~~

DATE OF DECISION 20.4.93

Shri Jogeshwar Malviya & Ors. Petitioner

Shri S. B. Kasar. Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Shri J. G. Sawant. Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice M. S. Deshpande, Vice-Chairman,

The Hon'ble ~~Shri~~ Ms. Usha Savara, Member(A).

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

No.

U. Savara
20.4.93
(USHA SAVARA)
MEMBER(A).

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, BOMBAY BENCH,

B O M B A Y.

Original Applidation No.195/88.

Shri Jogeshwar Malviya & Ors. Applicants.

V/s.

Union of India & Anr. Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,
Hon'ble Ms. Usha Savara, Member(A).

Appearances:

Applicants by Shri S.B.Kasar.
Respondents by Shri J.G.Sawant.

JUDGMENT:-

[Per Ms.Usha Savara, Member(A)]

Dated: 20.4.93.

The applicant, and six others have filed this application assailing the reversion order dated 12.11.1987, as well as the letter dated 29.9.1987 declaring the result of selection to the post of Train Conductors. It is the applicants' case that they were promoted as Train Conductors on 29.7.1985. They have worked on the post for 28 months on ad hoc basis, and suddenly, they have been reverted to the post of Travelling Ticket Examiner (T.T.E. in short) without following the procedure laid down in Discipline & Appeal Rules.

2. Reply has been filed by the respondents. The applicants had been promoted to fill up the vacancies of Ticket Conductors on ad hoc basis. This was done due to exigencies of work pending regular selection. Regular selection was held on 18.9.1986, 3.6.1987, 4.6.1987 and 1.7.1987. The applicants also appeared for the selection, but failed to pass. The reversion orders had to be made in order to post the selected candidates. It was submitted by Shri Sawant, learned counsel for the respondents that the Railway Service (Discipline & Appeal) Rules are not attracted to the facts of this case. Though the applicants have continued on the post for a long period

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of time, they do not acquire any right to be regularised on the post without ~~being~~ subjected to the selection process. The applicants could not qualify in the viva voce, and therefore, had to be reverted in order to post the selected incumbents.

3. Shri Kasar, learned counsel for the applicants submitted that the applicants' should not have been subjected to any tests. In any case, the marks were not allotted in a fair and impartial manner. It was also argued by him that the continuation of the ad hoc appointment for so long, was against the Rules, but the applicants having performed their jobs satisfactorily, the respondents could not have reverted them. Therefore, the order of reversion should be quashed and the applicants be promoted in the vacancies against which they have been working for more than 18 months.

4. We have heard the learned counsel. The records have been produced by the respondents and the same have been examined. There is no irregularity in the procedure, nor is there any unfair marking apparent. The applicants having appeared in the Examinations and having fared badly have no locus standi to challenge the irregularity at this stage as held by the Hon'ble Supreme Court in OM PRAKASH SHUKLA V/S. AKHILESH KUMAR SHUKLA (1986 Supp. S.C. 285).


5. The claim of the applicant that he could not be reverted after a period of 18 months has ^{also} to be rejected. The Full Bench, whose decision is binding on us has held in the case of Suresh Chand Gautam V/s. Union of India decided on 9.7.1991 that an employee appointed in a stop gap arrangement can be reverted at any time. If he has not qualified in the selection he can be reverted. Only if he has qualified and has continued for more than 18 months, then he cannot be reverted except after following

h.s.

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D.T.A. Rules. It has also been clarified that an ad hoc employee cannot be made regular unless he passes the Selection Test.

6. In this view of the matter, this application has to be rejected and accordingly, it is rejected. There will be no order as to costs.


(USHA SAVARA) 20.4.93 -
MEMBER (A)


(M. S. DESHPANDE)
VICE-CHAIRMAN

B.