

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY.

Tr. Application No. 228/86.

Shri Mohamed Yakub Khan,  
129/2, Kherwai Road,  
Railway Colony, Bandra (East),  
Bombay.400 051

... Applicant.

V/s.

1. Union of India,

2. General Manager,  
Western Railway,  
Bombay.400 020.

3. Divisional Railway Manager,  
Bombay Division, Western  
Railway, Bombay Central,  
Bombay.400 008.

... Respondents

Coram: Vice-Chairman, B.C.Gadgil  
Member (A), J.G.Rajadhyaksha.

Appearances:

Mr. Walia for the  
Applicant.

Mr. Master for the  
Respondents.

Oral Judgment:

(Per B.C.Gadgil, Vice-Chairman).

Dated: 17.10.1986.

The applicant had filed a Writ Petition No.293/85 in the High Court of Bombay challenging the punishment of reduction of the applicant to the post of Line-man Grade.I from the post of Chargeman (the order is at Ex.'C' page.23). The said writ petition has been transferred to this Tribunal for decision.

2. We have heard Mr.Walia for the applicant and Mr.Master for the Respondents. The applicant was a Chargeman. An enquiry was held against him on two charges. One of the charges was of not taking proper power block between Vileparle and Goregaon Sub-stations

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while working on the line and omission to provide Red Disc or Danger Board when the work was in progress. The Second charge was omission to supervise the work, personally. An enquiry officer was appointed, he held the first charge proved. As far as the second charge is concerned, he recorded a finding that 'the applicant cannot be held guilty of negligence of duty as he has to supervise work at more than one place'. The disciplinary authority considered his report, and as stated above the applicant was permanently reduced to the post of Line-man Grade-I. Applicant's appeal and review application were rejected and hence he filed the above mentioned Writ Petition.

3. When the matter was argued before us, it was mainly contended by Mr.Walia that the permanent reversion to the post of Line-man would be too harsh a punishment as the applicant would have to remain on that post till his retirement. The Respondents have filed the affidavit in reply, raising various contentions about the merits of the application. However, in paragraph 7 there is a statement that the case of the applicant would be reviewed after 2 years, if he improves his working. The period of two years is already over. Mr.Walia submits that it is now high time that the Respondents should consider the case of the applicant for promotion to the post of Chargeman whenever the next vacancy would arise. Mr. Master did not agree to this. However, we are of the opinion that there is no rational basis for the Respondents not to consider the applicant for promotion to the post of Chargeman. It would be in the fitness of things if we give necessary directions in that respect.

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4. The application is thus partly allowed. The Respondents are directed to consider the case of the applicant for promotion to the post of Chargeman whenever a vacancy arises, hereafter. It is needless to say that the case of the applicant will have to be considered on the basis of his service for the last three years, and the Respondents should pass appropriate orders, in case the applicant is found suitable for such promotion on the basis of his service.

Parties to bear their own costs.

*B.C.Gadgil*  
(B.C.GADGIL)

VICE - CHAIRMAN

*J.G.Rajadhyaksha*  
(J.G.RAJADHYAKSHA)  
MEMBER(A).

Received a copy of  
judgement dated 17/X/86  
by me. Mohamed Jaffer Khan  
M.J.K  
27/X/86