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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 297/86

198

T.A. No.

DATE OF DECISION 19-4-1990

Harshadrai Nyalchand Gandhi & 12 others. Petitioner

Mr.G.S.Walia Advocate for the Petitioner(s)

Versus

Union of India & another Respondent

Mr.N.K.Srinivasan Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. G.Sreedharan Nair, Vice-Chairman.

The Hon'ble Mr. M.Y.Priolkar, Member(A)

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 ? *X*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *X*

(Signature)
(M.Y.PRIOLKAR)
Member(A)

(13)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A.297/86

Harshadrai Nyalchand Gandhi
and 12 others.

.. Applicants

vs.

Union of India and another.

.. Respondents

Coram: Hon'ble Shri G.Sreedharan Nair, Vice-Chairman
Hon'ble Shri M.Y.Priolkar, Member(A)

Appearances:

1. Mr.G.S.Walia
Advocate for the
Applicants.
2. Mr.N.K.Srinivasan
Advocate for the
respondents.

JUDGMENT

(Per M.Y.Priolkar, Member(A))

Date: 19-4-1990

The applicants in this case are working as Draughtsmen, Estimators or Design Assistants, i.e., Drawing Office staff in the Survey and Construction Department at the Head quarters of the Western Railway at Churchgate, Bombay, (S&C for short), as distinguished from the Civil Engineering Department (popularly known and hereinafter referred to as Open Line). According to the applicants, due to the various projects undertaken by the S&C, the employees appointed in this department obtained enormous advancement in their careers which were considered far superior than the Open Line staff. In view of this, the Railway Board issued a circular on 13-3-1972 to the effect that in order to remove disparity and discontentment in the matter of seniority and promotion, there should be a combined cadre comprising the staff in the Open Line as well as S&C. It was also provided in this circular that while merging

the Open Line and S&C cadres, staff of S&C department should be assigned seniority which they would have got in Open Line but for their working in the S&C.

2. However, aggrieved by the method of implementation of the above orders of the Railway Board, some of the employees of the S&C department filed a petition in the High Court of Bombay (Special CA No. 2518/74) challenging the said action of the Railway administration. By its judgment dated 19th June, 1978 the High Court ordered that while preparing the combined seniority list, direct recruits in S&C shall be deemed to have joined the Open Line on the respective dates and in the scales and in the cadre to which they were recruited in S&C. Similarly persons appointed to S&C by transfer on selection from the Open Line shall be deemed to have been appointed to that particular post on that particular date and scale of pay in the Open Line.

3. The grievance of the applicants in the present case is that pursuant to the aforesaid judgment of the Bombay High Court, the respondents have prepared a combined seniority list in 1983 for the clerical staff alone but the Western Railway General Manager has not agreed to change the liens of S&C staff to their posts in S&C for the purpose of a combined seniority list for the technical categories to which the present applicants belong, vide his letter dated 23-7-1986. The applicants have,

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therefore, prayed in this application for quashing and setting aside this letter dated 23-7-1986 from the General Manager(Exhibit D) on the ground that it contravenes the provisions of the Railway Board letter dtd. 13-3-1972 as interpreted by the Hon'ble Bombay High Court.

4. According to the respondents, the applicants are direct recruits appointed in the Open Line of the various divisions of the Western Railway where they hold lien and are presently working in the S&C. The Writ Petition was filed in 1974 in the Bombay High Court by some of the ministerial and clerical staff alone of S&C and not by any of the employees in the technical categories. The respondents have stated that the applicants have already been assigned seniority from the date of their recruitment in Open Line in the grade in which they were recruited on these Divisions in which they hold their liens. It is also stated that there were some administrative difficulties in preparation of a combined seniority for the clerical and ministerial staff as they formed part of the combined seniority group of Budget, Works, Stores and Medical departments in the divisions but since as per the judgment of the Bombay High Court, the seniority was to be merged in the Open Line, a decision was taken in consultation with the recognised unions to assign their seniority in the Headquarters office Open Line after obtaining their options. No such difficulty existed in case of technical categories of staff like

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the applicants and hence their seniority which was already in existence in the Open Line of the Divisional units was combined and the staff, wherever they were holding lien, were continued on those seniority units and there was no need for giving them any option because it would have affected the seniority already existing which had to be retained in terms of the High Court judgment. The respondents have therefore justified the options given only to clerical/ministerial staff since they were to be merged with the Headquarters Open Line staff whereas the applicants were working in S&C but had their position already in the Open Line seniority lists of Divisions which included both the Open Line and S&C staff. We agree, in these circumstances, that the respondents have correctly implemented the High Court judgment, since the seniority of the S&C and Open Line staff in each division has been merged (except the ministerial staff) and the applicants have been given seniority from the date they have been recruited and in the grade of their recruitment.

5. The respondents also brought to our notice, during the course of the hearing, the judgment of the Ahmedabad Bench of the Central Administrative Tribunal dtd. 28-1-1988 in TA 374 of 1986 directing in an identical case that the General Manager, Western Railway, should pass a speaking order fully covering the points raised by the applicants in that application, after giving them a hearing.


In pursuance of this judgment, the General Manager has passed final orders on 15th November, 1988 to the effect that the applicants who were confirmed employees of different seniority units of the Divisions should seek and secure further advancement in their career, in their respective units only and not in a new seniority unit of their choice. It was stated on behalf of the respondents that these orders of the GM have become final since they were not challenged before the Tribunal.


6. We find considerable merit in the reasoning given in the General Manager's order that if the applicants are permitted to change their lien from different divisional units where they are confirmed, to a separate headquarters drawing office cadre, then the ~~appointment~~ opportunities for working in the S&C organisation will be exclusively limited to the staff who join the Head Quarter drawing office cadre. An opportunity to work in the S&C organisation enriches technical and supervisory skills of the technical personnel and the present arrangement permits such an opportunity to the technical staff of all seniority units (recruitment to which is conducted by three different Recruitment Boards at Bombay, Ahmedabad or Ajmer). If the applicants' submission is accepted, such an opportunity will be restricted only to those recruited by the Railway Recruitment Board at Bombay for the Head Quarters



drawing office cadre. Such an arrangement of rotation of the Head Quarters drawing staff and field executive staff for technical personnel is generally prevalent in most departments of the Government and is conducive to their efficient working. We do not think that by this arrangement, the technical employees are discriminated vis-a-vis the clerical employees as contended by the applicants. Obviously, there is no particular advantage in rotating the clerical employees between the Head Quarters and field offices. In any case since this principle is being adopted bonafide to increase efficiency and to meet exigencies of the service, the applicants should have no justifiable grievance.

7. Both on grounds of legality as well as of equity, we do not therefore see any merit in this application, which is accordingly dismissed with no order as to costs.


(M.Y. PRIOLKAR)
Member(A)


(G. SREEDHARAN NAIR)
Vice-Chairman

*Decdgment Ad. 19.4.90
Send to parties. on
p. 5.90.*

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