

whereas the applicant has no prescribed age of superannuation as long as he remains as Hawker & Beggar Checker in the scale Rs.210-270 (RS) he will have to retire on superannuation on the very day that he gets promotion in the selection grade of Rs.225-308 (RS) because he would, simultaneously, have been promoted from Class IV to Class III and hence would no longer be an employee for whom there was no prescribed age of superannuation. The age of superannuation for Class III employees is 58 years.

7. It has not been denied by the respondents that the applicant was not considered for promotion in the selection grade. It has also not been denied that the applicant was not offered this promotion. It is also not the case of the respondents that the applicant was considered and found unsuitable for promotion to the selection grade post. The respondents have admitted that persons junior to the applicant have been promoted to the selection grade post. It is thus evident that the respondents took it upon themselves to decide that the applicant did not want to be promoted to the selection grade because such promotion would have resulted in his simultaneous retirement on superannuation.

8. There is no doubt that if the applicant continues in his present grade and post, he has no age of superannuation. If, however, he is promoted to the selection grade post, he will have to proceed on superannuation the very instant that he is so promoted. It also appears that little or no benefits will accrue to the applicant by such a promotion. In fact, all that will happen is that he will immediately have to proceed on retirement on.

3. On 2.9.1978 the Ministry of Railways (Railway Board) introduced a selection grade for Hawker & Beggar Checkers by converting four posts in scale Rs.210-270 (RS) to scale Rs.225-308 (RS). It is applicant's contention that he was entitled for promotion to this post after one Shri Ganpat Laxman had refused this promotion. It is his further contention that the Railway administration failed to give him this promotion and, instead, promoted his juniors S/Shri Shivram Mahadeo, Waman Malhari and R.O.Jadhav. It is his contention that he was not considered at all for this promotion. He submitted several representations including an advocate's letter but has not received any reply.

4. The respondents have opposed the application by filing their written reply. We also heard Smt. Neeta Masurkar, learned advocate for the applicant and Shri R.K. Shetty, learned advocate for the respondents.

5. The respondents first contention was that the application is barred by limitation under Section 21 of the Act. We do not see any force in this contention in as much as the applicant's representation of 1986 remained unanswered and he filed the application in 1986 itself.

6. It is the case of the respondents that the applicant being a permanent employee appointed before 1.8.1940, there is no prescribed age of superannuation for him as long as he remains in a Class IV post. It is their submission that post of Hawker & Beggar Checker in the selection grade of Rs. 225-308 (RS) is a Class III post because any post the scale of which goes beyond Rs.290/- is a Class III post. As against this, the post of Hawker & Beggar Checker in the scale Rs.210-270 (RS) presently held by the applicant is a Class IV post. It is their contention that, therefore,

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

OA NO. 428/86

Shri Vithal Balloo,
BTT Chawl No. 24/94,
Agricola, M.G.Marg,
Bombay 400 011.

... Applicant

v/s.

1. The General Manager,
Central Railway,
Bombay.
2. Divisional Railway Manager,
Bombay.

... Respondents

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

Appearances :

Mrs. Neeta Masurkar
Advocate
for the Applicant

Mr.R.K.Shetty
Advocate
for the Respondents

JUDGMENT

Dated: 7.2.1989

(PER: P.S.Chaudhuri, Member (A)

This application was filed on 27.11.1986 under Section 19 of the Administrative Tribunals Act, 1985 (the Act). In it the applicant prays for a direction that he be promoted to the selection grade of Rs.225-308 (RS) for Hawker & Beggar Checkers on Bombay Division of Central Railway.

2. The applicant was born on 1.7.1917. He was appointed as a Sweeper Boy at Wadibunder on 14.10.1932. Thereafter, he worked as Shed Boy at Wadi Bunder. On 10.5.1940 he was transferred as a Cloak Room Porter under Chief Ticket Inspector, Bombay V.T. He was thereafter, on 2.4.1958, promoted as Hawker & Beggar Checker in which post he is now working in the scale Rs.210-270 (RS).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI
NEW BOMBAY BENCHO.A. No. 428/86
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DATE OF DECISION 7.2.1989

Shri Vithal Balloo Petitioner

Mrs. Neeta Masurkar Advocate for the Petitioner(s)

Versus

The General Manager, C.Rly.Bombay & Respondents
another.

Shri R.K.Shetty Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Mr. P.S.Chaudhuri, 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?
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.



superannuation. This, however, is not for us to decide. It is entirely a matter in which the applicant has to make his own choice. This was made clear to him and it was his submission that he wanted the promotion prayed for regardless of the consequences.

9. In the result, the application succeeds. The respondents are hereby directed to consider the case of the applicant for promotion to the post of Hawker & Beggar Checker in the selection grade corresponding to the erstwhile pay scale of Rs.225-308 (RS) and to offer him such promotion should they find that he is suitable for the promotion. The subsequent action to be taken by the respondents will, of course, be in conformity with the rules. In the circumstances of the case, there will be no order as to costs.


(M.B. Mujumdar)
Member (J)


(P.S. Chaudhuri)
Member (A)