

(10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY Bench.

O.A.No. 606/89
T.A.No.

199

DATE OF DECISION 14.12.1993

Shri L.A.Tribhuvane. Applicant(s)

Versus.

Union of India & Ors. Respondent(s)

(For Instructions)

1. Whether it be referred to the Reporter or not? *no*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *no*

M/R Kolhatkar

(M.R.KOLHATKAR)

MEMBER (A)

[Signature]
(M.S.DESHPANDE)

~~XXXXXX~~/VICE CHAIRMAN/
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(11)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

BOMBAY.

Original Application No.606/89.

Shri L.A.Tribhuvane.

.... Applicant.

V/s.

Union of India & Ors.

..... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,
Hon'ble Shri M.R.Kolhatkar, Member(A).

Appearances:-

Applicant by Shri Gangal,
Respondents by Shri J.G.Sawant.

Oral Judgment:-

[Per Shri M.S.Deshpande, Vice-Chairman] Dt. 14.12.1993.

The only question which arises for consideration in this application is whether the applicant would be entitled to difference in the wages of Chargeman Gr.'B' from 17.6.1988 i.e. the date from which the Respondent No.3 came to be promoted to that post until the date of the applicant's actual promotion as Chargeman Gr. 'B' w.e.f. 15.7.1991.

2. It is unnecessary to refer to the particulars which have been ^{given} by the parties. Suffice it to say that the applicant volunteered to go to Production Control Organization (PCO) as Maistry when the persons qualified to fill up that post were asked for their willingness and he accordingly gave his willingness and his services were utilised in the PCO as Maistry from 23.12.1963 without his having given the trade test required for Highly Skilled Gr.II and Highly Skilled Gr.I on 11.6.1981 though his immediate junior Shri Prabhakar Kerkar Respondent No.3 was asked to give these tests. Eventually the applicant came to be promoted in

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July, 1991 to the post of Chargeman Gr. 'B' and thereafter in the year 1993 to the post of Chargeman Gr. 'A'. It is not therefore necessary for us to go into the question initially raised by the applicant whether he was entitled to get the promotion to the post of Chargeman Gr. 'B'.

3. Shri Gangal, learned counsel for the applicant pointed out to us that the applicant could not have been regarded as ineligible for the post of Highly Skilled Gr. II or Highly Skilled Gr. I because he was not called for the trade test which his juniors Respondent No. 3 to 5 were asked to give. We inquired from the learned counsel for the respondents whether the applicant had been called for these tests and Shri Sawant very fairly stated before us that he does not have material to show that the applicant was called for to give these trade tests and that he declined to give them. Not giving the trade test cannot therefore be a factor which can be taken against the applicant.

4. Though the post of Chargeman Gr. 'B' is a selection post, it is apparent that the applicant was denied the opportunity to compete for the post because of his not having given the trade test of Highly Skilled Gr. II and Highly Skilled Gr. I in the year 1981. This is clearly ^{denied} ~~granted~~ to the applicant without any fault on his part and we find that the applicant would be entitled to the difference in wages from the period 17.6.88 to the date of his actual promotion as Chargeman Gr. 'B' in July, 1991 and seniority over Respondent No. 3 Shri Prabhakar Kerkar and the other Respondents.

5. In the result, we direct the Respondents to

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give the applicant his seniority over the Respondent

No.3 and all the monetary benefits which the Respondent No.3 enjoyed from 17.6.1988 within a period of three months from the date of communication of this order.

M R Kolhatkar

(M. R. KOLHATKAR)
MEMBER (A)

M. S. Deshpande

(M. S. DESHPANDE)
VICE-CHAIRMAN

B.