

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 870
T.A. No.

1989

DATE OF DECISION 98.10.1991

Shri Changdev Keshavrao Gadilkar Petitioner

D.V. Gangal

Advocate for the Petitioner(s)

Versus

Union of India and others Respondent

Sri Subodh Joshi.

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice U.C. Srivastava, V.C.

The Hon'ble Mr. M.Y. Priolkar A.M.

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 in needs to be circulated to other Benches of the Tribunal ? ✓

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, BOMBAY BENCH.

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Registration O.A. No. 870 of 1989

Shri Changdev Keshavrao Gadilkar, Chargeman-A
Working under Loco Foreman, Central Railway
Kurduwadi, District Solapur Applicant.

Versus

Union of India through General Manager
Central Railway, Bombay V.T. and others Respondents.

Coram:- Hon'ble Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. M.Y. Priolkar, Member (A)

Appearance:- Applicant by Sri D.V. Gangal.
Respondents by Sri Subodh Joshi.

Oral Judgment

(Per Mr. Justice U.C. Srivastava, Vice-Chairman) Dt: 08.10.1991

The applicant has approached to this Tribunal with a grievance that in the cadre of Chargeman-B and Chargeman-A he has ^{been} not placed at the appropriate place in the seniority list and thereby delegating him in the matter of adhoc and regular promotion to the post of Assistant Mechanical Foreman/Assistant Loco Foreman. He has prayed that he may be declared senior to the other 6 respondents and that the selection to the post of Assistant Mechanical Foreman/ Assistant Loco Foreman which commenced vide letter dated 10.10.1988 is illegal and he may be promoted to these posts w.e.f. 28.9.1988 and 31.5.1989 and his pay should be fixed in that grades.

2. The applicant's grievance is that he had started his career as Trade Apprentice on 5.3.1964, and after (an intervening promotion, he was promoted on adhoc basis as Chargeman-B on 5.3.1983 and thereafter as Chargeman-A on 3.7.1985. A selection took place for the post of Chargeman-B vide letter dated 25.8.1984 and although the applicant was called for that very selection but he was not spared by the administration to appear in the same. Another selection was formed

on 28.9.1985 and the applicant who succeeded was regularly posted after due selection on 17.4.1986 and the applicant should be treated w.e.f. 5.3.1983 from the date he was working on adhoc basis as Chargeman-B in as much as his adhoc promotion was neither stopped nor suspended, but came to be regularized. According to the applicant, the others were promoted after him and he has given their date. The applicant has thereby also claimed for the post of Assistant Loco Foreman on adhoc basis which has been granted to those, according to the applicant, who were junior to him. The respondents have refuted the claim of the applicant and have stated that the application ~~is~~ deserves to be dismissed as multiple relief has been claimed and further it is barred by time. The learned counsel for the applicant has argued the case on the matter of condonation of delay and thereby we condone the delay. We do not find as a prayer although more prayers have been made but the prayer one close from the others and they are inter-linked as such the plea that the application is to be rejected on the ground of multicity of the prayers has no force. Now the respondents have stated that the applicant was not spared for the test on administrative ground which took place on 16.9.1984. ~~But~~ A supplementary test was conducted on 21.10.1984, the applicant expressed his ^{own} willingness to appear in the same on the ground that he was ^{trained} ~~claimed~~ only ^{on} narrow gauge hydrolic locomotives and had no knowledge of broad gauge electric locomotives. The unwillingness of the applicant as is apparent from the application was unconditional. The applicant and three others had made a representation to the Chief Personnel Officer stating that they have ^{been} ~~trained~~ in narrow gauge and have no knowledge of broad gauge. The application of the applicants was sympathetically considered and the Chief Personnel Officer vide letter dated 4.4.1985 agreed that the Divisional Railway Manager should conduct a separate selection for these 4 employees and that is why a selection took place and the applicant was placed in panel on

17.4.1986. According to the applicant these selections should be integrated and finally published on the basis of seniority and further as such he was working on adhoc basis w.e.f. 5.3.1983/on the basis of continuous officiation, his appointment ^{to be dated} is ~~2 days~~ back w.e.f. 5.3.1983 and he is to be given seniority from that date over those who were appointed subsequently. Now from these facts, it is apparent that the applicant was justified in not appearing in the supplementary test and the grievance of the applicant was genuine and that is why the grievance is from favour of the authority and a fresh supplementary test took place. A fresh supplementary test was thus in continuation of part of the earlier supplementary test and can not be from it, although this test actually took place subsequently it would be deemed as if the applicant also appeared in the test which took place on 21.10.1984, the applicant has become successful. As the applicant will be deemed to have been successful in the supplementary test held on 21.10.1984, his position in the panel be fixed accordingly. In view of the fact that the applicant has become successful in the supplementary test held on 21.10.1984, it is necessary for the department to decide the question of seniority of the applicant after giving opportunity to the person concerned in accordance with law and accordingly the respondents are directed that as if the applicant ~~had~~ appeared in the supplementary test held on 21.10.1984 and was empanelled therein, the question of seniority of the applicant is to be determined by the department as observed above expeditiously within a period of 3 months from the date of communication of this order. The application is disposed of with the above terms. Parties are left to bear their own costs.


Member (A)


Vice-Chairman

Bombay Bench
(n.u.)