

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

[REDACTED]
[REDACTED]
NEW BOMBAY BENCHO.A. No. 682/89
xTxxxNx

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DATE OF DECISION 1.11.1989

Mohammad Ali Hussain PetitionerMr. Mohan Sudame Advocate for the Petitioner(s)

Versus

Union of India & Ors. RespondentMr. V.G. Rege 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? *No*3. Whether their Lordships wish to see the fair copy of the Judgement? *No*4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

(3)

Central Administrative Tribunal
New Bombay Bench
New Bombay.

Original Application No. 682/89.

Mohammad Ali Hussain,
C/o. Md. Iqbal,
Advocate,
102, J.P. House,
Ravinagar Square,
NAGPUR.

... Applicant.

V/S

- 1) Union of India,
Through the General Manager,
South Eastern Railway,
43, Garden Reach,
CALCUTTA.
- 2) The Divisional Railway Manager,
South Eastern Railway,
NAGPUR.
- 3) The Divisional Personal Officer,
South Eastern Railway,
NAGPUR.
- 4) Shri S.R. Wankhede,
Station Superintendent,
South Eastern Railway,
GONDIYA.
- 5) Shri R.K. Roy,
Acting Head Ticket Collector,
South Eastern Railway,
GONDIYA.

... Respondents.

Coram:- The Hon'ble Member(J), M.B. Mujumdar.

The Hon'ble Member(A), P.S. Chaudhuri.

Appearance:

Mr. Mohan Sudame,
learned Advocate
for the applicant.

Mr. V.G. Rege,
learned Counsel
for the respondents.

ORAL JUDGMENT:-

Date: 11.11.1989.

(Per M.B. Mujumdar, M(J))

Heard Mr. Mohan Sudame, Advocate for the applicant
and Mr. V.G. Rege, Advocate for the respondents.

2. By Order dated 25.3.1982 the next increment due to
the applicant raising his pay from Rs. 342/- to Rs. 348/- in

P.T.O.

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the scale of Rs. 260-400 which was normally due on 1.1.1983 (date of increment) was withheld for three years, i.e. upto 1.1.1985, without cumulative effect. By another order dated 19.4.1983 the next increment raising his pay from Rs. 342/- to 348/- in the scale of Rs. 260-400 which was normally due on 1.1.1983 was withheld for three years, i.e. upto 1.1.1985, without cumulative effect. This punishment was directed to run concurrently alongwith the punishment in the order dated 25.3.1982. Lastly by another order dated 9/16.9.1983 the next increment raising his pay from Rs. 342/- to Rs. 348/- in the scale of Rs. 260-400 when due was withheld for one year without cumulative effect. Again this punishment was directed to run concurrently alongwith the two earlier punishments in the two orders dated 25.3.1982 and 19.4.1983.

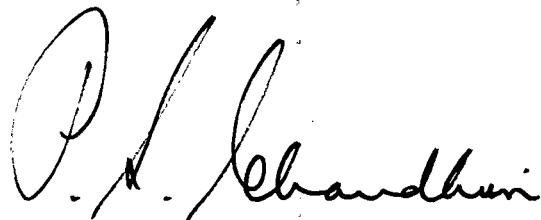
3. We may point out that these punishment orders were issued as a result of separate departmental proceedings. The charges in all the three proceedings were similar, viz. committing serious irregularities resulting in undue harrassment to bonafide passengers.

4. By order dated 22.5.1987 the applicant was transferred and promoted as Senior Ticket Collector, Gondia in place of Shri D.K. Chowdhury. However, by Note No. 4 of the same order it was directed that his promotion was subject to being free from punishment of stoppage of increment and also free from Special Police Establishment/vigilance/discipline and appeal cases. By order dated 18.9.1989, which is the impugned order in this case, the order of promotion dated 22.5.1987 was not given effect to because the applicant was undergoing 7 years punishment of stoppage of increment with ~~the~~ non-cumulative effect till August, 1990. In other words promotion as Senior Ticket Collector was not given to the applicant as per the order dated 22.5.1987 on the assumption that the increment due to the applicant was stopped for 7 years.

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5. There cannot be any doubt that this assumption is not correct. Both the two later orders of punishment dated 19.4.1983 and 9/16.9.1983 clearly mention that the punishments were to run concurrently alongwith the punishment in the first order dated 25.8.1982. Thus in effect the increment was stopped for three years only. It is wrongly interpreted by the respondents in the order dated 18.9.1989 that the increment was stopped for seven years. Probably they have misconstrued the word "concurrently" used in the orders dated 19.4.1983 and 09/16.9.1983. That is why they have mentioned in the impugned order dated 18.9.1983 that the increment was stopped for seven years, without cumulative effect, till August, 1990. Hence we are constrained to admit the application and quash and set aside the impugned order dated 18.9.1989.

6. We, therefore, quash and set aside the impugned order dated 18.9.1989 at annexure VII at page 22 of the application. We are informed that the applicant is already promoted as Senior Ticket Collector in pursuance of the order dated 22.5.1987. The applicant should be continued in that post of Senior Ticket Collector from the date on which he took charge of that post. The application is disposed of on these lines, with no order as to costs.



(P.S. CHAUDHURI)
MEMBER (A)



(M.B. MUJUMDAR)
MEMBER (J).