

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No.

~~T.A.~~ No.

543 of 1989

198

DATE OF DECISION 8th.10.1991

Sri Uttam Joti Bagal

Petitioner

Sri 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. Prasad-kar A.M.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *N*
2. To be referred to the Reporter or not ? *N*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *N*
4. Whether in needs to be circulated to other Benches of the Tribunal ? *N*

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, BOMBAY BENCH.

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Registration O.A. No. 543 of 1989

Sri Uttam Joti Bagal Applicant.

Versus

Union of India and another Respondents.

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

Appearances:- Counsel for the Applicant Sri D.V. Gangal,
Counsel for the Respondents Sri Subodh Joshi,

Oral Judgment:-

(By Hon'ble Mr. Justice U.C. Srivastava, Vice-Chairman) Dt. 8th.10.1991

The applicant who is working at Kurduwadi was promoted as Basic Boiler Maker/Fitter/Mechanic in the year 1978. He was further promoted on the post of Boiler Maker/Fitter/Mechanic on 24.11.1980. All promotions were granted to the applicant after passing of the Trade Test. There was conversion of Steam Traction to Hydro Diesel on the N.G. Section of the Loco Shed at Kurduwadi. All the employees were trained by giving them conversion training. The grievance of the applicant is that arbitrarily, training was given only ^{to} 8th pass employees. The applicant was only 4th class pass but was one experienced person. The result was that the training was given to S/Shri J.D. Mulla, Subhash Ramachandra, Makbol Mulla, Afzal Ladle who were working as Khalasi since 1980 or thereabout and were junior to the applicant. Now the applicant has stated that allegedly the respondents called for volunteers; vide letters dated 22.10.1981 and 7.1.1983 were issued but no notice regarding the same was given to the applicant and he was kept in darkness, the result of which, is that the juniors were allowed to supersede ^{him} and were promoted. The applicant after the promotion of the juniors made repeated representations and the reply thereto was given to him only on 21.6.1989. In the reply which is on record, it was

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stated that the notification was issued calling upon the willingness but the applicant and three others did not submit their willingness for Diesel Conversion Training at any time and in the year 1985, they have ^{been} subjected ^{to} ~~for~~ suitability test for the Diesel Conversion Training and were found fit and taken in diesel cadre. The persons junior to the applicant who were ^{had} earlier volunteered in the year 1982 to 1984 were trained for the diesel cadre and were posted in the same cadre. Subsequently the applicant was also placed in the diesel cadre and has become junior to his juniors due to their prior training and posting. Although the plea regarding the transfer was not ^{Taken earlier} ~~prescribed~~ but the same was raised at the time of argument. On behalf of the respondents, it was pleaded that there was a programme to replace the old Steam Locomotives in or about September, 1982 in order to facilitate, ^{which} the respondents invited 'Volunteers' who were interested for Diesel Conversion Training. It has been denied that no educational qualifications whatsoever as to 8th Standard Passed or any thing whatsoever sought, as falsely contended by the applicant to mislead this court and made wrong allegation of favouritism. Regarding the applicant's representation it has been said that the representation dated 11.12.1985, the applicant sought stepping up of pay with his juniors and the same was disposed of on 20.2.1986. A further plea has been ~~taken~~ ^{that} no relief even otherwise can be granted to the applicant against Mulla and others and they have ^{been} ~~not~~ ^{impleaded} as a party and no order to the detriment of a person can be passed without giving him an opportunity of hearing.

2. On behalf of the applicant, a reference of two representations, a representation which was filed in the year 1978 and the other representation dated 30.7.1988, it has been mentioned that the applicant was not considered on the ground of education qualification and the juniors were directed to work at Nagpur, and the reply of these representations were given referred to above. Now along with the rejoinder affidavit, the applicant has filed some notice

by one Inspector Desh Pande. Now there was no denial of the fact that those who were sent for training were of 8th standard pass and none was below 8th standard. It appears that the notices were sent to the department but there is no such documents on record. From the representation, of the applicant, it appears that although there was no such direction that those who were passed 8th class only may be taken but it may be done orally. Accordingly the respondents are directed to consider this plea raised by the applicant in his representation within three months after making the enquiry into the matter and in case, they come to the conclusion, that applicants were not sent for training on this ground, necessary relief may be granted to the applicant by the department itself. And in case, they come to the conclusion that it was merely by a co-incidence that those who were passed 8th standard were volunteers and other did not volunteer and there is no such bar of education qualification orally or otherwise and the applicant was not deprived from training on this ground, obviously the representation would be deemed to have been dismissed and with the above observations, the application of the applicant is hereby dismissed. No order as to the costs.


Member (A)

Bombay Bench
(n.u.)


Vice-Chairman