

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 979/1996

Date of Decision: 3.4.97

Shri Vishwanath Eknath Gaikwad Petitioner/s
and 3 Ors.

Shri E. V. Gangal Advocate for the
Petitioner/s

V/s.

Union of India & Anr. Respondent/s

Shri Suresh Kumar Advocate for the
Respondent/s

CORAM:

Hon'ble Shri B. S. Hegde, Member (J).

Hon'ble Shri M. R. Kolhatkar, Member (A).

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?


(B. S. Hegde)
Member (J)

abp.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GULESTAN BLDG NO.6, PRESCOT RD., 4TH FLR.,
MUMBAI - 400 001.

ORIGINAL APPLICATION NO: 979/1996.

DATED THIS 3rd DAY OF APRIL, 1997.

CORAM : Hon'ble Shri B.S.Hegde, Member (J).

Hon'ble Shri M.R.Kolhatkar, Member (A).

1. Shri Vishwanath Eknath Gaikwad,
Railway Colony, D-325, N.S.11,
Kurudwadi, Tal-Mhada,
Dist - Solapur.
2. Shri Prakash Narayan Khokale,
Railway Quarter No.RBI-43-III,
At-Post - Ahmednagar,
Tal & Dist-Ahmednagar.
3. Shri Mohan Rajaram,
Railway Quarter-D type,
At-Post - Shahabad,
Tal. & Dist. Gulbarga
(State-Karnataka).
4. Shri Sadashiv Narayan Waghmode,
At-Hingani,
Post - Gotewadi, Tal-Mohal,
Dist. Solapur.

... Applicants.

By Advocate Shri D.V.Gangal.

V/s.

1. Union of India through the
General Manager, Central Railway,
Mumbai C.S.T. - 400 001.
2. The Divisional Railway Manager,
Central Railway,
SOLAPUR.

... Respondents.

By Advocate Shri Suresh Kumar.

I O R D E R I

(Per Shri B. S. Hegde, Member(J))

Heard Shri D.V.Gangal for Applicant and Shri Suresh Kumar for Respondents.

In this OA, the applicants have challenged the impugned cancellation order passed by respondents dated 12/9/96 at Annexure-A-1. The Tribunal vide its order dated 27/9/96 directed the respondents not to cancel the result of the Trade

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test which continue till today. The grievance of the applicants is that they were working either as Helper Khalasi, Gangman or Trolleyman under respondent No.2 for the last 10 to 15 years and they did not get promotion.

2. The Divisional Railway Manager vide his letter dated 1/7/96 called for a trade test to fill up four posts of Mech. Fitter-III in the scale of Rs.950-1500. In that letter, it is stated that the Sr. Most Helper Khalasis, Khalasis, Sr. Gangman and Gangman only those who are willing to appear for the trade test shall send their applications giving full particulars, etc. The result of the trade test is given in Annexure A-3 vide letter dated 14/8/96 in which all the four applicants have passed the trade test. The contention of the applicants is that since they have passed the trade test, the cancellation order issued by the respondents without giving any reason is illegal and unjustified and further they have not furnished any reason for cancellation of the promotion/transfer order dated 12/9/96.

3. Respondents in their reply denied the contention of the applicants and submitted that the applicants had erroneously been called to appear in the promotion/trade test and therefore the very selection is void and non est in law. Applicant Nos. 1 and 2 are working as Helper Khalasis under Assistant Engineer, Kurduvadi and Ahmednagar respectively and applicant Nos. 3 and 4 are working as Trolleyman and Gangman under Assistant Engineer, Shahbad and Solapur. It is true that they have issued a notification dated 1/7/96 for filling up the post of Mechanical fitter grade-III. However, inadvertently, in the said notification, applications from Sr. Gangman and Gangman were also called for whereas as per channel of promotion only Sr. Semi Skilled Artisans (Helper Khalasis) in Grade 800-1150 are eligible for Skilled Artisan Mech. Fitter Gr.III in grade Rs.950-1500 vide channel of promotion for works and Filter Plant Staff issued by Chief Personnel Officer (Engg.) Mumbai on 3/1/85 and channel of promotion for open line Permanent Way Cadre

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under Railway Board's letter dated 29/7/83. According to the said cadre of promotion, Gangmen are eligible for promotion as Sr.Gangman/Trolleyman, Sr. Keyman and are not eligible for Skilled Artisan Mech. Fitter Gr.III. This irregularity was brought to the notice of Railway Administration by the Central Railway Mazdoor Sangh (Recognised Union) during P.N.M. Meeting. Since there were procedural lapse first, the assessment of vacancies, out of four posts as per rule 159, two posts are meant for promotion of staff in the lower grade, however two posts 25% by selection from Course Completed Act Apprentices ITI passed candidates and Matriculates from the open market and further 25% from serving semi skilled employees, etc.

4. Therefore, the selection of the four applicants is found to be irregular and they are left with no other alternative but to cancel the same as their appointment is not in accordance with the rules. Further the applicants were not in the feeder cadre for seeking promotion to the post of Mechanical Fitter. Since four vacancies have been notified according to seniority, only the first two persons in seniority were to appear for trade test, if they fail in trade test, then only second batch will be called. This has not been disputed by the applicants in the pleadings. As stated earlier, the only contention of the applicants is that since they have passed the trade test, the promotion/transfer order cannot be cancelled without giving notice. Since the very selection is not in accordance with the rules and they do not fulfill the requirement of seniority as well as claim on the basis of feeder cadre, they cannot claim promotion as a matter of right to the post of Mechanical Fitter.

5. In the result, and for the reasons stated above, we do not find any merit in the OA and the same is dismissed. No order as to costs.

M. R. Kolhatkar
(M. R. KOLHATKAR)
MEMBER (A)

abp.

B. S. Hegde
(B. S. HEGDE)
MEMBER (J)