

24. Mohd. Nasim A.  
25. Nafis Ahmed M.  
26. Shamim Ahmed H.  
27. Rahendra Prasad R.  
28. Bhagwat D. ... Applicants

C/o, Suresh Kumar, Advocate,  
CAT Bar Association,  
Gulestan Building, 3rd Floor,  
Prescot Road, Fort,  
Mumbai-23.

By Advocate Shri G.S. Walia

Versus


1. Union of India  
through General manager,  
Western Railway, Churchgate,  
Bombay-400 0020.  
2. Divisional Railway manager,  
Western Railway, Bombay Central,  
Bombay.  
3. Divisional Railway Manager (E),  
D.R.M. Bombay,  
Bombay Central, Bombay.  
4. Senior Divisional Mechanical  
(Engineer), Bombay Central,  
Bombay. ... Respondents

By Advocate Shri V.S. Masurkar.

O R D E R (ORAL)

Shri Justice V. Rajagopala Reddy, Vice Chairman (J)

By notification dated 20.7.93, the Divisional Railway Manager decided, as one time exception to permit the surplus cleaners who are 8th Standard pass with 5 years or more service and fit in Medical A-ONE to be given one time chance to appear for examination as Diesel/Electrical Assistant. Consequently, a selection



was proposed to be held from amongst those who are working as cleaners in Steam Loco Shed and absorbed as Cleaners/ Khalasis in Diesel/ Electrical Shed on account of closure of steam shed. Certain qualifications were prescribed as minimum requirement for such selection. After the test, the selected candidates will be given training as per their seniority and posting would depend upon the requirement.

2. Accordingly, all the applicants, who have been working as cleaners in the steam shed on maintenance side and who are rendered surplus, appeared in the selection. The selection comprised of written test, medical examination and also psychological test. The applicants were successful in all the tests. However, their names were not found in the panel published on 14.10.94 of the eligible candidates for sending them to the training. Hence, the present OA is brought before this Tribunal.

3. Learned counsel for the applicant Shri Walia contends that as they had passed all the tests conducted by the respondents, they are entitled to be shown in the select panel and sent for the training.

4. In the reply, it is admitted that they had passed the written test. However, no mention was made as to their passing the other tests namely medical ~~ss~~

OA

and psychological test. it was merely stated that they were not selected and hence their names were not found in the select panel.

5. Having heard the counsel for the applicants and respondents, we directed the learned counsel for the respondents to produce the original selection record so as to verify whether the applicants have passed all the tests. The learned counsel accordingly produced the record and after perusing the same, we find that all the 28 applicants have passed through the tests for selection and they were found fit to be sent for training. In view of the above, it appears that the select panel must have, by over sight, omitted to mention the names of the applicants. Since the applicants have been selected, they are entitled to be sent for training. The question of seniority of the applicants will have to be decided as and when they complete the training successfully.

6. As a result, the OA is allowed. the respondents are directed to send all the applicants for the required training for absorption as Diesel/ Electrical Assistants on maintenance side in accordance with notification dated 20.7.93. We do not order costs.

*Smt. Shanta Shastri*

(SMT. SHANTA SHASTRY)  
MEMBER (A)

*V. Rajagopala Reddy*

(V. RAJAGOPALA REDDY)  
VICE CHAIRMAN (J)


13) 22/2/2002.

C.P. NO: 21/2002.

Heard Ms. Ekta Thaveri for  
Shri G.S. Walia, counsel for  
applicant.

Issue Notice to Sanjay Singh,  
Sr. D.P.O., Western Railway, Mumbai  
(Respondents /contemnor No.2) as we  
are satisfied from the averments  
made in the C.P. that a prima-  
facie case is made out of wilful  
disobedience of the order of this  
Tribunal. The prayer for taking action  
against contemnor- Respondent No.1  
will be considered after receipt of  
reply from R-2.

case posted to 22/3/2002.

  
(M.P. Singh)  
M(A)

B. Dixit  
(B. Dixit)  
V/C.

OS

ms  
Shri V  
22/2/02

Notices  
to be despatched  
to Contestant (s)  
on 18/3/2002

(18)

Date 28/6/02  
CR No. 1  
S.No. 3

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

C.P. NO. 36 of 2002

IN

O.A. No. 366 OF 96

AZIZ AHMED & 27 OTHERS

Applicant

VERSUS

Union of India & Others

Respondents

I N D E X

Sr. Exhibit No.	Particulars.	Page No.
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PLACE ; MUMBAI

DATE : 28.6.2002

(V.S. Masurkar)  
Counsel for the  
Respondents.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

C.P.No. 36 OF 2002

IN

O.A. No. 360 OF 96

AZIZ AHMED & 27 OTHERS

Applicant

Versus

Union of India & Others.

Respondents

WRITTEN REPLY ON BEHALF OF THE RESPONDENTS.

I, Sanjay Singh, Senior Divisional Personnel Officer, having my office at Divisional Railway Manager's office Western Railway, Mumbai Central 400 008, do hereby state on solemn affirmation as under:

1. I say that I am authorised to file this reply to on behalf of the Respondents.
2. I say that I am acquainted with the facts and circumstances of the case, in my official capacity.
3. I say that I have gone through the contents/averments/allegations made in the contempt petition and reply is as under:
4. The Respondents respectfully submit that as per the directions of the Competent authority, the respondents have filed writ petition before the Hon'ble High Court at Mumbai in April, 2002. The logging number of the Writ Petition is 18729 of 2002.

5. The said writ petition is now <sup>will be</sup> posted for Admission and interim reliefs <sup>on 1st week of July 02</sup>

The applicants have already filed Caveat dated 18.2.2002 in the Hon'ble High Court and therefore the copy of the writ petition is already served on the applicants/Advocate on 28/6/02

6. The Respondents state that from the aforesaid, it is clear that the Writ Petition is already filed in the higher court and therefore the Contempt Petition is not maintainable in law. In these circumstances, the respondents have not violated/have <sup>not</sup> disregarded to the orders passed by this Hon'ble Tribunal but only exhausted the remedial measures for filing writ Petition in the High court which is maintainable in law and the action taken by the Respondent should not be construed and termed as the contempt of this Hon'ble Tribunal's order. The Respondents have the highest regard to the Court of law and no disrespect is shown by filling the writ petition. In support the contentions, the respondents are relying upon the judgement of the Supreme Court Suresh Chandra Poddar V/S Dhani Ram reported in 2001(8) Supreme 615=2002 (1) SCT 290. Administrative Tribunals Act, 1985 - Section 17 read with Section 12 of Contempt of Courts Act, 1971- ~~Order~~ Order of CAT. New Delhi-Director of Education, Govt. of NCT of Delhi delaying in implementing the order as challenged in writ petition- Direction complied with subsequently, after receipt of

notice of contempt Tribunal still sentenced the contemner whether correct ? - (No.), <sup>Held</sup> Even if appellant had not implemented the order and if the appellant had brought to the notice of the Tribunal that the order of the Tribunal is under challenge before the High Court under Article 226 of the Constitution of India (the course which has been judicially recognised by a seven judge bench of this court in L. Chandra-kumar V/S UOI (1997) 3 SCC 261 ) the Tribunal should have been slow to proceed against the party in a contempt action. Of course , it can be said that no stay was granted by the Court when the appellant moved the Division Bench of the High Court under Article 226 of the Constitution. Not granting the stay by itself is not enough to speed up proceedings against a person in contempt because the very order is yet to become final. At any rate the Tribunal should have directed the appellant to implement the direction, in the absence of the stay order from the High Court, within a time frame fixed by it. We should have appreciated if the Tribunal had done so and then considered whether action should be taken in the event of



the non implementation of the expiry of the said time frame. The respondents crave leave to file detailed affidavit in reply, if necessary.

Place: Mumbai

For and on behalf of the  
Union of India & Others.

Date : 28. 6. 2002

Senior Divisional Personnel Officer  
Western Railway, Mumbai Central.

V E R I F I C A T I O N

I, Sanjay Singh, Senior Divisional Personnel Officer, having my office at Divisional Railway Manager's office, Western Railway, Mumbai Central 400 008, do hereby state on solemn affirmation that whatever is stated in reply to the contempt Petition is true to my personal knowledge and belief as revealed from the perusal of the official record on the subject and also state that no material aspects has been suppressed.

Place: Mumbai

Senior Divisional Personnel Officer  
Western Railway, Mumbai Central.

Date : 28. 6. 2002

(Vinay S. Masurkar)  
COUNSEL FOR THE RESPONDENTS.