

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:103/99

DATE OF DECISION: 16-1-2001

Shri P.H.Tayade Applicant.

Shri K.B. Talreja Advocate for  
Applicant.

Versus

Union of India and others Respondents.

Shri V.D. Vadhavkar Advocate for  
Respondents

**CORAM**

Hon'ble Shri Kuldip Singh, Member (J)

Hon'ble Ms. Shanta Shastry, Member (A)

(1) To be referred to the Reporter or not? X

(2) Whether it needs to be circulated to  
other Benches of the Tribunal? X

(3) Library.

  
(Kuldip Singh)  
Member (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO:103/99

the 16<sup>th</sup> day of JANUARY 2001.

CORAM: Hon'ble Shri Kuldip Singh, Member (J)

Hon'ble Ms. Shanta Shastry, Member (A)

P.H. Tayade  
Catering Inspector, C.Railway,  
Pune, under Executive control  
of DRM, Central Railway, Mumbai. ....Applicant.

By Advocate Shri K.B. Talreja.

V/s

1. The Union of India through  
The General Manager,  
Central Railway, CSTM, Mumbai.
2. The Divisional Railway Manager  
Central Railway, CSTM, Mumbai.
3. Shri Rajendra S. Medhe
4. Shri Rajayya S. Gangaram
5. Shri Shankar Prasad.
6. Shri N.K. Pipil. ....Respondents.

Respondent No. 3 to 6 are working as  
Catering Inspector under respondent  
No. 1.

By Advocate Shri V.D. Vadhavkar.

O R D E R

{Per Shri Kuldip Singh, Member (J)}

Vide a circular dated 2.1.1999 (Annexure 2) the  
respondent Central Railway proposed to conduct a selection for  
forming panel of 5 candidates ( 3 GL + 2 SC) for the post of  
Chief Catering Inspector grade Rs. 6500 - 10500, for which a  
written test was to be conducted. This circular was circulated to  
certain candidates who according to respondents were eligible for  
the said post. List of candidates was annexed as Annexure A to  
the circular.

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2. Applicant felt aggrieved of the same as his name was not included in the said list though he claims that he had been promoted as Senior Catering Inspector (Sr. C.I.) vide Sr. DPO/CST's letter dated 10.2.1999 who had also directed the Chief Personnel Officer (C) Bombay to incorporate applicant's name in the seniority list of Sr. C.I. which had been published on 19.11.1997. Despite this applicant's name does not figure in the eligibility list, Annexure A to Annexure 2.

3. The applicant further claims that he was appointed on 11.3.1982 as Assistant Cook and then promoted as Assistant Catering Manager in 1986 and Catering Manager in 1988 and was subsequently promoted as Catering Inspector in the Scale of Rs.1400 - 2300 with effect from 1.3.1993 vide Annexure 4.

4. The applicant is also a SC candidate. He further alleges that respondents 3 to 6 were appointed as C.I.'s in September 1993 i.e. after a period of 6 months when applicant was promoted as C.I. All of them are thus junior to the applicant, but they have been called and applicant had been ignored. So the applicant <sup>has prayed that</sup> [REDACTED], seniority list be corrected and applicant be also considered for the post of CCI.

5. Respondents contested the OA. In their reply they have stated that as per provisions of para 215(c) of IREM Vol. I, 9 GC + 6 SC candidates from the lower grade Sr. C.I. (Rs. 1600 - 2660 / Rs.5500 - 9000) were to be called, accordingly they were called. Since the applicant is not working as Sr. C.I. his name was not included.

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6. Respondents further say that as per para 215 (a) IREM Vol. I an employee who is in the immediate lower grade with minimum of 2 years service in the grade of Rs. 5500 - 9000 (RSRP) is eligible for the selection for the post of CCI. Since applicant was not working as Sr. C.I. so his name was rightly excluded.

7. Even the applicant has nowhere in the OA has asserted that he has ever been appointed / promoted as Sr. C.I. Whereas respondents 3 to 6 had been promoted to grade of Rs. 5500 - 9000 as far back on 26.8.1997. Their promotion has not been challenged. So applicant cannot be senior to them in any case.

8. Respondents even allege that letter dated 25.8.1997 has also been issued erroneously by Sr. DPO, Mumbai. As on 1.9.1993 applicant was not working at Mumbai Division and was at Bhusawal Division. They also rely on letter dated 6.4.1999 issued from the Office of DRM (P) Mumbai CST. *to his effect*

9. We have heard the learned counsel for the parties and have gone through the record.

10. The contention of the applicant is that he was appointed as C.I. on 1.3.1993 whereas respondents 3 to 6 were appointed in September 1993 so he had been ignored, *despite being senior.*

*km*

11. The learned counsel for the respondent has contended that the applicant had been erroneously given promotion as CI with effect from 1.3.1993 as it ~~reflects~~ reflects in letter dated 6.4.1999 as applicant is deemed to have been empanelled for the post of CI in general vacancy with effect from 3.3.1997.

12. Besides that it is submitted that respondents 3 to 6 had already been promoted as Sr. C.I. so as per para 215(a) of IREM. It is only respondents 3 to 6 <sup>who</sup> could be called.

13. The counsel for the applicant submitted that at the time of consideration even the respondents 3 to 6 had not worked for 2 years in the immediate lower grade. <sup>also</sup>

14. Admittedly the applicant had never been promoted as Sr.C.I. which is an immediate lower grade to the post of C.C.I. Whereas respondents No.3 to 6 had been promoted as Sr. C.I. The applicant had at no stage challenged the promotion of respondents 3 to 6 as Sr. C.I. and through this OA he cannot challenge their promotion now.

15. As far as the plea of applicant that even respondent 3 to 6 had not completed the 2 years service in immediate lower grade is concerned we find that to test their eligibility we shall have to refer to para 215 (a) of IREM, which is reproduced herein under:

215. Selection Post

a) Selection post shall be filled by a positive act of selection made with the help of Selection Boards from amongst the staff eligible for selection. The positive act of selection may consist of a written test and / or viva voce test;

in every case viva-voce being a must. The staff in the immediate lower grade with a minimum of 2 years service in that grade will only be eligible for promotion. The service for this purpose will include service if any, rendered on adhoc basis followed by regular service without break. The condition of two years service should stand fulfilled at the time of actual promotion and not necessarily at the stage of consideration.

16. The perusal of this paragraph shows that to be eligible for promotion to a selection post, the field of consideration is that the selection can be made from amongst those candidates who were working in the immediate lower grade.

17. In this case applicant was not working in the immediate lower grade whereas respondents 3 to 6 were working in the immediate lower grade as Sr. C.I.

18. As regards the period of 2 years service in the lower grade is concerned, the gist of para 215 (a) makes it clear that the condition of two years service should <sup>stand</sup> ~~be~~ said to have fulfilled at the time of actual promotion and not necessarily at the stage of consideration.

19. Hence we find that applicant is unable to find any fault with the selection of respondents 3 to 6 on the contrary applicant having not worked as Sr. C.I. at any point of time was not in the consideration zone. So we hold that OA is devoid of any merits and same is liable to be dismissed. Accordingly OA is dismissed. No order as to costs.

*S. S. S.*

(Ms. Shanta Shastry)  
Member (A)

*K. Singh*

(Kuldip Singh)  
Member (J)