

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO: 238/2000 and 239/2000

DATE OF DECISION: 23.4.2001

Shri D.K. Pagare and Another Applicant.

Shri K.R. Yelwe Advocate for
Applicant.

Versus

Union of India and others. Respondents.

Shri Suresh Kumar Advocate for
Respondents

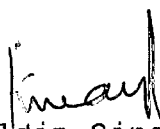
CORAM

Hon'ble Shri Kuldip Singh, Member(J)
Hon'ble Ms. Shanta Shastry, Member(A)

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

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

(3) Library.


(Kuldip Singh)
Member(J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 238/2000 and 239/2000.

MONDAY the 23rd day of APRIL 2001.

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

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

1. D.K. Pagare
Residing at
Amrut Kalash Co.op.
Society, Shivaji
Nagar No.2, Manmad.
Dist. Nasik.

...Applicant in
OA 238/2000

2. G.R. Shaikh
Residing at
Railway Quarter RB/III
6/D, Vrindavan colony,
Yeola Road, Manmad(Nasik)

...Applicant in
OA 239/2000

By Advocate Shri K.R. Yelwe for Shri M.P. Vashi

V/s

1. Union of India through
The General Manager,
Central Railway Head
quarters, CST, Mumbai.
2. The Chief Personnel Officer
(Engg.) Central Railway, HQ
Personnel Branch, Mumbai.
3. The Chief Works Manager (E/W)
Central Railway, Manmad,
Dist. Nashik.

...Respondents.

By Advocate Shri Suresh Kumar.

ORDER (ORAL)

{Per Shri Kuldip Singh, Member(J)}

By this order we proceed to decide two OA's titled above,
since both the OA's have common issues of law and facts.



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2. When the case was taken up Shri Yelwe appearing for applicants submitted that Mr. Vashi will argue the case who is stated to have been engaged by the applicants to argue. But when Mr. Vashi did not appear, we heard Shri Yelwe for applicants and proceeded to decide the case, in terms of Rule 15 of CAT Procedure Rules.

3. The main grievance of the applicant in both the cases are ¹ about the letter dated 15.1.1998 (A-1) and consequential letter (A - 2).

4. Vide Exhibit A -1 the department had taken decision to discontinue the Ad hoc arrangement and vide letter A -2 the applicants were reversed ^{to} from the post of Chargeman 'B' to the post of Maistry.

5. The applicant in this OA alleges that these orders are discriminative and are in violation of Articles 14 and 16 of Constitution of India, as earlier 9 employees out of 14 employees who were holding the said post on Ad hoc basis had been regularised.

6. It was also stated that since 1978 there was no direct recruitment made by Railway Recruitment Board to the post of Chargeman 'B'. The appointments cannot be denied regularisation for fear of litigation.

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7. On the contrary the case of respondents is that applicants were given the post of Chargeman 'B' purely on Ad hoc basis as at that time Junior Engineer II were not available. The applicants can be given promotion as per Recruitment Rules only against departmental quota whenever such selections are held.

8. The respondents also pleaded that Ad hoc promotion given to applicants were against the recruitment rules. So applicants could not be regularised.

9. The learned counsel for the respondents also pleaded that an Ad hoc employee can always be reverted if regularly selected candidates become available and in this case also since regularly selected candidates have become available, so department has reverted back the applicants.

10. In our view also, it is an admitted case of the applicants that they had been given Ad hoc promotions as Chargeman 'B'. They do not have any right to be regularised against the rules. Since regularly selected candidates by the Railway Recruitment Board have become available to man these posts, so the applicants have to make room for them.


11. It is a cardinal principle of law that Ad hoc promotee can be retained in higher post only till the regularly selected candidate is not available. Now since the regularly selected candidates have become available so we do not see any fault in reversion of the applicants.

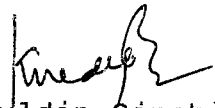
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12. Hence we are of the view that OA's have no merits and same are hereby dismissed.

13. No costs.


(Ms. Shanta Shastry)
Member (A)


(Kuldip Singh)
Member(J)

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