

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BOMBAY BENCH, MUMBAI.

ORIGINAL APPLICATION NO.58/2001.

Dated: 8.4.04.

Hon'ble Shri Anand Kumar Bhatt, Member (A),
Hon'ble Shri S.G.Deshmukh, Member (J).

- 1) C.D.Attarde,
 - 2) M.S.Chimbulkhar,
 - 3) Anil Rama Bhangale,
 - 4) S.V.Patil,
 - 5) D.G.Choudhary,
 - 6) Ramesh B.Bharmbe,
 - 7) M.T.Suryawanshi,
 - 8) C.Y.Bharambe,
 - 9) M.S.Badgujar,
 - 10) B.P.Chaudhari,
 - 11) P.N.Nimbulkar,
 - 12) N.K.Karande,
 - 13) Mukund N.Wani,
 - 14) R.M.Patil,
 - 15) A.W.Kazi,
 - 16) P.B.Bharambe,
 - 17) V.E.Khadase,
 - 18) M.M.Patil,
- All working under Chief
Workshop Manager (ELW),
Central Railway, Bhusawal
Workshop,
Bhusawal.

(By Advocate Shri H.A.Sawant)

...Applicant.

Vs.

- 1) The Chief Workshop Manager
(ELW) Central Railway Workshop
Bhusawal, Bhusawal,
Central Railway.
- 2) The General Manager,
Central Railway, C.Rly. HQ.
Office CSTM Building,
Mumbai - 400 001.
- 3) The Union of India
acting through the Secretary
RailwayBoard, Rail Bhawan,
Ministry of Railways,
New Delhi - 110 001.
- 4) Shri Kadu Nathoo, T.No.4134,
Electrical Fitter,
327/10.



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- 5) Shri Vishwanath Dhana
T.No.4213
Electrical Fitter,
328/10.
 - 6) Shri Suresh Narayan
T.No.4228,
Electrical Fitter,
329/10.
 - 7) Shri Madhukar Damoo,
T.No.4158,
Electrical Fitter,
330/10
 - 8) Shri Suresh Murlidhar,
T.No.4202,
Electrical Fitter,
331/10.
 - 9) Shri D.T.Borole,
T.No.2870,
Mechanical Fitter,
293/10.
 - 10) Shri Shantaram Buddha,
T.No.2871,
Mechanical Fitter,
293/10.
 - 11) Shri Kasam Ninoo,
T.No.4089,
Mechanical Fitter,
294/10.
 - 12) Shri Bhagwat Narayan
T.No.4149,
Mechanical Fitter,
295/10.
 - 13) Shri Dnyandeo Kondiram
T.No.4223,
Mechanical Fitter,
296/10.
- (By Advocate Shri V.S.Masurkar)

...Respondents.

: ORDER :

{Anand Kumar Bhatt, Member (A)}

The applicants are working as Electrical and General Fitters/ Mechanical Fitters in the Railways. They are aggrieved by their seniority list of the Mechanical and Electrical Staff

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which has been published according to them on 20.3.1997. They have stated that they are direct recruits. Although the training period was shown as 18 months, the actual training period was curtailed to 9 months. In other departments such direct recruits have to undergo training only for six months. The applicants have been given seniority after 18 months of training. They passed the trade test after completion of the training. By assigning such seniority, departmental promotees in the skilled categories of various trades have been shown as senior to the applicants and a few of them have even been promoted to the Highly Skilled Gr.I cadre. The benefit of training period is given for the purpose of increments and they should be given the seniority also accordingly. As they are apprentice passed candidates, the training for them is only an Orientation and Familiarisation training. The training period for the departmental candidates who are promoted is only six months as prescribed by the Railway Board and issued by the General Manager Central Railway Circular dt. 22.6.1979 (Annexure - A-17). The relief sought is that only six months training period should be counted and not 18 months, with all consequential benefits, give the applicants seniority over the departmental promotees, issue a fresh seniority list and not to promote the promotee 'juniors' of the applicants to the higher post.

2. In the reply submitted by the respondents, it has been stated that the representation was made to the Competent Authority 2 1/2 years from the date of publication of the seniority list, whereas, as per Rule 321 (b) of IREM seniority list should have been challenged within one year from the date of

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publication. The seniority list was published on 2.8.1989, 6.9.1989 and 5.5.1992. The first representation was made on 1.10.1992 and the reply was given by the respondents on 19.3.1993. The Respondents clarified that the training period is to be counted for the purpose of increments and not for seniority. The notification for direct recruitment by which the applicants were recruited was made on 17.9.1984 in which the training period was prescribed as 18 months and the same has been mentioned in the applicants' appointment letter also. When the proposal of curtailment of training period of Trained Artisans was from 18 months to 9 months, it was with clear understanding that the benefit of seniority will be given only after completion of 18 months. The curtailment of training period was in the interest of administrative exigency. The condition of their seniority being fixed after 18 months of training was made known to each appointee before the appointment. No seniority list was published by the respondents in 1987 as has been averred by the applicants in para 4.58 of the OA. The seniority list was published on 17/23.7.1986 and then on 2.8.1989 and 6.9.1989. In the first list so published, the applicants' names were not mentioned in the seniority list as they had not completed the training period and their names have appeared in the subsequent two seniority list published as on 2.8.1989 and 6.9.1989. The representation should have been made within one month which was not done by the applicants. Seniority list cannot be revised after such a long lapse of time. Having accepted the offer

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of appointment with stipulated conditions, the applicants^u cannot now claim after a lapse of so many years for a change in that.

3. In the oral submissions Shri H.A.Sawant on behalf of the applicants has stated that the Railway Board's letter dt. 7.4.1982 which says that in case the training period of a direct recruit is curtailed in the exigency of service, the date of joining the working post in case of such a direct recruit shall be the date he could have normally come to the working post after completion of a prescribed period of training (Annexure - A-26) is illegal. The Learned Counsel admitted that the earlier OA filed by the first batch has been rejected by the Tribunal. However, the applicants belong to the second batch and the points that have been raised by them had not been raised by the earlier batch.

4. On behalf of Respondents Shri V.S.Masurkar stated that the earlier OA 258/2000 R.P.Patil and 30 Ors. was rejected vide order dt. 4.7.2003. The representation, as well as, the present OA is highly belated in relation to the cause of action. Objections were invited on the seniority list in 15 days' time and the statutory rules also prescribe one year only.

5. We have considered the case. The circular dt. 22.6.1979 (Annexure - A-7~~9~~) relates to promotion of Artisan staff to the post of Skilled Artisan. In this circular, the training period of 6 months has been prescribed for such promotees. However, the notification for direct recruitment by which the present applicants were appointed prescribed the training period as 18

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months and the appointment letter issued also mentioned the said period. By the letter dt. 7.4.1982 following condition has been made in Rule 302 :

" In case the training period of a direct recruit is curtailed in the exigencies of service, the date of joining the working post in case of such a direct recruit shall be the date he would have normally come to a working post after completion of the prescribed period of training".

The counsel for the applicants argued that it is illegal. However, he has not been able to point out as to why this is so, especially in view of the fact that the notification and appointment letters, both mentioned the training period as 18 months. Vide Railway Board's letter of 15.11.1991 (Annexure A-19) and 2.6.1992 (Annexure A-20) training period has been allowed to be counted for the purpose of drawing increments. However, it was earlier applicable only w.e.f. 1.10.1990. The training period before 1.10.1990 was not to be counted for the purpose of increments. However, subsequently vide Railway Board letter dt. 2.6.1992 the benefit for the purpose of drawing increments was also extended to those who had undergone such training on or before 1.1.1986. But, such benefit of counting the period for increments was directed to be admissible on notional basis from 1.1.1986 and on actual basis from 1.10.1990. However, the respondents have categorically stated that the benefit of drawal of increments cannot be extended to the benefit of seniority. In terms of the initial notification, the appointment letter and the clarification issued by the Railway Board vide letter dt. 7.4.1982 (Annexure - A-26) there is no

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