

(3)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

OA 152/90

Umakant Pal

... Applicant

vs.

General Manager,
Central Railway, Bombay

... Respondent

CORAM : Hon'ble Shri G.Sreedharan Nair, V.C.
Hon'ble Shri P.S.Chaudhuri, Member (A)

Appearances:

None present for the
applicant.

Shri B.K. Panigrahi, Law
Assistant, in the Office
of General Manager, for
respondent.

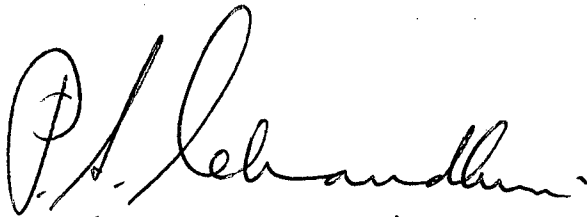
ORAL JUDGEMENT
(Per. Shri G.Sreedharan Nair, VC)

Dated : 26 June 1990

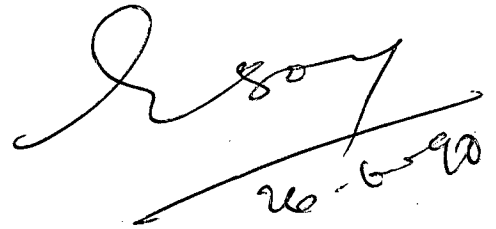
1. The applicant or his counsel is not present.
2. The relief that is prayed by the applicant is for directing the respondent to fix his pay in the grade of Driver i.e. Rs.950-1600. The ^{Said} ~~main~~ relief is claimed on the grounds that the applicant was selected for the post of Driver and was accordingly posted. There is nothing on the record to show that the applicant who was a Diesel Cleaner was actually appointed to the post of Driver which is on a higher scale of pay. It is seen that the appointment of the applicant was to the post of Khalasi in the scale of pay of Rs.750-940 and while so he was performing the duties of Diesel Cleaner. In the absence of any material to hold that the applicant was appointed to the post of Driver in the scale of pay of Rs.950-1600, fixation of the pay as claimed cannot be allowed.

Cont'd. . . 2/-

3. The application is rejected.



(P.S. Chaudhuri)
M (A)


26-6-90

(G. Sreedharan Nair)
V.C.

(5)

Submitted to:-

Hon'ble Vice-Chairman Shri G. Sreedharan Nair.

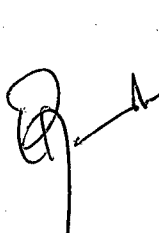
Hon'ble Member(A) Shri P.S. Chaudhuri.

Original Application No. 152 /90 was decided by the Bench consisting of the Hon'ble Vice-Chairman Shri G. Sreedharan Nair and Hon'ble Member(A) Shri P.S. Chaudhuri on 26.6.1990 (Flag 'A'). Against that Judgment, the applicant preferred the Review Petition No. 61/90.

The Review Petition is filed in time.

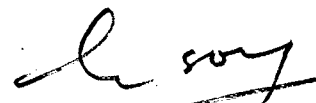
As per Rule 17(ii) of the Central Administrative Tribunal Procedure Rules 1987 the Review Petition is submitted for by circulation.

Date: 10th Dec. 1990


Deputy Registrar.

9/1/91

6.1.1991. Notice to the respondents returnable by 11.2.1991 on which date the petition may be listed before the Bench.


V.C.



M(A)

30/1/91

Judgment dt 26-6-90
Served on Applicant
on dt 11/1
MS
28-8-90

Review Petition
No. 61/90.

886
7/12/90

R. P. 61/90 fixed
for hearing on
11-2-91

11-2-91

Dated: 11-2-91.

Applicant by Mr. G. S. Walia
holding the brief of Mr. A. M.
Nerlekar. Mr. F. A. Khan, Chief
Law Officer in the Office of
Respondents is present.

The original application
was finally decided by Mr. G.
Sreedharan Nair, V. C. and one
of us, viz., P. S. Chaudhuri, A. M.
On the Review Petition orders
have been passed to issue
notice to the respondents
returnable today.

In view of the ^{provisions} ~~position~~ of
Rule 17 of the CAT (Procedure)
Rules, 1987, the Registry to
obtain orders of the Chairman
in regard to the hearing of the

Contd.

Notices are issued
to Applicant & Respondent
for R.P. on dt 1-2-91

MP
1-2-91

Notice dt 1/2/91, served
on applicant on 4/2/91,

2/2/91

Notices are issued to
the Applicant & Respondent
on dt 6-6-91

MP
6-6-91

contd.

review petition. Suitable notice
to be issued to both sides there-
after.

T.C. Reddy (P.S. Chaudhary)
MCT MCA

Date - 5-6-91

The Hon'ble Vice-Chairman
Shri G. Sreedharan Nair will
be sitting on this Bench for
one week commencing from
1-7-91. In view of the letter
dated 5-4-91, of Deputy Registrar,
Principal Bench, the Review Petition
be fixed for hearing on 2-7-91.

Issue notice to both sides.

5/6/91
Deputy Registrar.

Dated: 2.7.91

Mr. Y.R. Singh for the applicant.

Mr. P.R. Pai ^{for the} respondents
At the request of Mr. P.R.
Pai adjourned to 5/7/91
for hearing and order
on R.P. NO 61/90

P.S. Chaudhary (G. Sreedharan Nair)
MCA (V.C.)

(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

RP No.61/90 in OA No.152/90

Shri Umakant Pal,
~~Residing at~~ C/o Shri
Amboka Dube, Rly Quarter,
No. H 197, Murbad Road,
Subhash Chawk, Kalyan Dist:Thane

.... Applicant

Vs.

The General Manager
Central Railway- Bombay VT

.... Respondent

CORAM : Hon'ble Shri G.Sreedharan Nair, Vice-Chairman
Hon'ble Shri P.S.Chaudhuri, Member(A)

Appearance :

Mr.Y.R.Singh,
Adv.for the applicant

Mr.P.R.Pai, Adv,
for the Respondents

ORAL JUDGMENT

JULY
DATED : 5th AUG 1991

(PER : G.SREEDHARAN NAIR, VC)

Heard counsels of either side. This Review
Petition is filed by the applicant in the Original Application
for review of the final order dated 26.6.1990. The prayer ^{is}
~~has~~ opposed by the respondent.

2. The ground on which the review ^{is} sought is that

"there is an error of law, which is apparant on the face
of the judgment, and ~~order~~ there is an error on face of
record which requires to be reconsidered "

3. The relief, which was claimed in the original
application was for direction to the respondents to
fix the pay of the Review Petitioner, the applicant
in the Original Application, in the grade of Driver.

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RP 61/90 in 152/90

This relief was claimed on the basis that the petitioner was actually relieved from the post of Diesel Cleaner and posted as Driver. In the final order, it was pointed out by us that there is ^{nothing} ~~no~~ on the records to show that the applicant who was Diesel Cleaner was actually appointed to the post of Driver. It was on that basis that the Original Application was rejected at the stage of admission.

4. In the petition for review, it is stated that ^{he} along with Original Application the Petitioner had filed an Ex. 'A', the copy of letter dated 1.6.1989 ^{indicating} ~~in~~ that he has been selected for the post of Driver and he is to be put under probation for a period of six months from the date of resumption of duty. It is also stated that the petitioner had alleged in the Original Application that he was relieved on 9.8.1989 to take up duty of Driver. It is on the ground that ^{he} Tribunal did not take ^{note} ~~facts~~ of this, that the petitioner ^{assails} ~~attracts~~ the statement ~~of~~ in the final order about absence of any material on records relating to the ~~appointment~~ ^e of his appointment to the post of Driver.

5. In the reply that has been filed by the respondent to the Review Petition, It is stated that though the Chief Project Manager through his letter dated 1.6.1989 recommended the name of the applicant ~~is~~ suitable for the post of Driver. ~~But~~ the Personnel Branch on examination of the case did not select him and as such though he was relieved it was for the purpose of taking up the duty as substitute Khalasi. The respondents have produced a copy of letter dated 7.8.1989 issued by the Chief Personnel Officer to support this plea.

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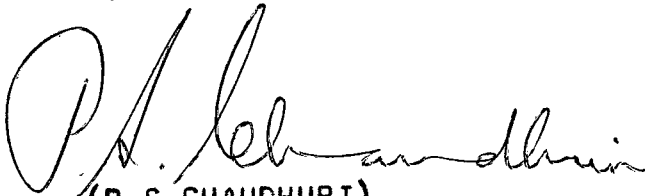
6. Rejoinder has been filed by the petitioner wherein it is asserted that the petitioner has been discharged to resume the duties of Driver and counsel of the petitioner also asserted so.


7. On perusal of records we are not satisfied that there ^{is} any error apparent on the face of the records ^{attempted} as is ~~admitted~~ to be made out. Evidently, the reliance placed on Ex. 'A' letter dated 1.6.1989, wherein it is stated that the petitioner has been selected for the post of Driver ~~present~~ ^{of} is no assistance in this context, for the question that is in issue, ~~he~~ ^{he is} is whether actually/entitled to pay ~~of the~~ ^{fixation} in the grade of Driver. It was on the ground that the petitioner had not produced any records to show that he was actually appointed to the post of Driver, that the finding was arrived ~~that~~ in the final order. There is no material even at this stage to hold that the ~~such~~ ^{said} statement ^{is} factually ~~incorporated~~ ^{incorrect}.

8. The counsel for the petitioner submitted that the final order was passed in his absence and hence the material on record could not ^{be} brought to the notice of Tribunal. No doubt the final order dated 26.6.1990 was passed in the absence of the counsel of the applicant. However, the order was passed in the open court on that date on which Original Application was duly posted for hearing and admission. It ~~is~~ ^{is} significant ^{to} be pointed out ^{that} ~~and~~ even in the Review Petition there is no averment justifying the absence of the petitioner or his counsel on ~~that~~ ^{the} date on which the matter was considered and disposed of.

9.

Accordingly, the Review Petition is dismissed.


(P.S. CHAUDHURI)
MEMBER (A)


(G. SREEDHARAN NAIR)
VICE-CHAIRMAN
5.7.99