

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A. NO: 382/90

199

T.A. NO:

DATE OF DECISION 11.2.1992

VISHNU SHANKAR WAGH

Petitioner

MR.L.M.NERLEKAR

Advocate for the Petitioners

Versus

Divisional Railway Manager Respondent

C.R.Bombay, VT.

MR.S.C.DHAVAN

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. JUSTICE U.C.SRIVASTAVA, Vice-Chairman

The Hon'ble Mr. M.Y.PRIOLKAR, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

  
U.C.SRIVASTAVA  
VICE-Chairman

mbm\*

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

ORIGINAL APPLICATION NO. 382/90

Shri Vishnu Shankar Wagh,  
Passenger Driver,  
Bombay, Bombay VT and ors.

....applicants

V/s

Divisional Railway Manager  
C.R. Bombay, VT.

.... respondent

CORAM : HON'BLE JUSTICE MR. U.C. SRIVASTAVA, Vice-Chairman  
HON'BLE MEMBER MR. M.Y. PRIOLKAR, MEMBER(A)

Appearance :

Mr. L.M. Nerlekar, Adv.  
for the applicant

Mr. S.C. Dhavan, Adv.  
for the respondents.

ORAL JUDGEMENT

11th FEB 1992

(PER : U.C. SRIVASTAVA, Vice-Chairman)

The applicant was appointed as a Asstt. Driver on 17.9.1963 through Railway Service Commission. Apparently, the applicant being a member of scheduled casts community, he was promoted as Driver on 7.3.1973 and Motorman on 19.7.1978 and Passenger Driver in the year 1989. The next promotional Post is "Special Grade Driver" and these Drivers are posted as Ghat Drivers and Mail Express Drivers. The employees opted to go as Ghat Drivers are posted on the principles of "First in" "First Out" system for future promotion. In this connection, the Railway Board has issued a circular dated 24.1.1990. The applicant was promoted as a Passenger Driver in the year 1989 and that too being a

member of Scheduled Casts community. The selected passenger drivers are required to undergo at least for a period of 6 months training, and six months working in line is further considered for Ghat training and after successful completion of ghat training the successful candidates are posted as Ghat Driver at Igatpuri in the Grade of Rs.1640-2900.

The Passenger Drivers duly selected were not available and hence Motorman and Passenger drivers (adhoc) were sent for Ghat training in the year 1987 and after completion of training they were utilised to officiate against day to day vacancy of Ghat Driver. They did not work continuously as such they were paid difference of milage allowance at the rate of 15% instead of different pay as per extent order. The first applicant was selected as a Passenger Driver in the year 1989. The second applicant was also utilised as a Ghat Driver against day to day vacancy and after giving him training in the year 1987, as the Motorman refused training for adhoc posting as Passenger Driver and as such the motorman who had not refused adhoc posting were sent for Passenger Driver Training. The persons were later on empaneled and they started claiming their posting as Ghat Driver, which they had refused and in their places those who were junior to them <sup>were posted and they</sup> ~~and who~~ accepted the same. About the said posting representations <sup>u</sup> were made. Their representations ~~were~~ rejected as those adhoc driver had opted to work in Ghat and seniority of the applicants were not affected at all. Subsequently, it appears that these drivers have also been empaneled and that is why no change in the posting has taken place. The grievance of the applicant is that it was not obligatory for them to accept the adhoc posting and after being included in the panel they can be appointed now as Ghat Driver, which post was denied to them with the result although they are senior, the juniors were posted as adhoc drivers. They are losing certain allowances of 31 days working. In this connection a reference has been made to the circular dated 24.1.1990, which laid down

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the principles of transfer/promotion of Electric Loco running staff which provides.

1. Promotion from the post of Motorman, grade Rs.1600-2660(RPS) to the post of Driver 'A' (Passenger) grade Rs.1600-2660(RPS) is by selection and on completion of training as per the programme.
2. After the prescribed training the employee should work as passenger driver at least for a period of 6 months.
3. The Passenger driver is posted to work at I.G.P. as Ghat Driver, Grade Rs.1640-2900(RPS) after prescribed Ghat training.
4. IGP Ghat Drivers will be posted at LNL Ghat on first in first out basis.
5. LNL Ghat to VT as Driver 'A' spl. Grade Rs.1640-2900 (RPS) after prescribed training.
6. Ghat drivers posted on adhoc will first ~~be~~ will be posted at IGP ghat and then to LNL ghat on first in-first out basis. Adhoc drivers will however remain at LNL.

The applicant states that, in view of the fact that the Ghat Drivers posted on adhoc basis will be firstly posted at the IGP Ghat and then to Lonawala Ghat on 'First in "First out" basis. They will however, remain at Lonawala. Yet the adhoc drivers are being not only retained at Lonawala but they are posted <sup>to</sup> Igatpury ghat which they are not entitled to under the Railway Board's direction referred to above. The necessary consequences will be

they alone are to be posted as a result they will not be deprived of their allowances. When both those juniors and seniors has been empaneled, Obviously, the posting is in hands of the Railway Administration. Once ~~the~~ an employees gets the adhoc offer to work as Ghat Driver, they cannot be deprived <sup>of</sup> the same merely because, there was applicant's earlier refusal and later on <sup>he</sup> wanted the said post when they were duly empaneled and as such no direction in this behalf can be given. But it is a matter for the Railway Administration to consider. It has laid down certain guidelines for it in the shape of directions issued by the Railway Board, reference to which has been made earlier, and accordingly based on the observations, the respondents should consider the applicant's case for posting as Ghat Driver in accordance with the Railway Board Circular dated 24.1.1990 and the instructions laid down therein. Let the consideration be made within a period of two months from the date of communication of this order. There is no order as to costs.

  
(M.Y. PRIOLKAR)  
MEMBER (A)

  
(U.C. SRIVASTAVA)  
Vice-Chairman

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