

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

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O.A. NO: 385/90

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~~T.A. NO.~~

DATE OF DECISION 11.2.1992

MUKUND RAJARAM MATAPURKAR

Petitioner

MR. L.M. NERLEKAR

Advocate for the Petitioners

Versus

Divisional Railway Manager
C.R. Bombay VT.

Respondent

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)

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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

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

ORIGINAL APPLICATION NO: 385/90

MUKUND RAJARAM MATAPURKAR,
Driver at Igatpuri and
residing at 51/5, Central
Railway Colony, behind Sion
Hospital, Bombay- 400022

.... Applicant

V/s

Divisional Railway Manager,
Central Railway, Bombay, VT.

.... Respondents

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 : JUSTICE U.C.SRIVASTAVA, Vice-Chairman)

The applicant was selected in the selection held on 30.6.1989 as a Passenger Driver for which the selection was not held from the year 1983 and adhoc arrangement were ~~being~~ made. The applicant refused to work on adhoc basis, but as such his juniors were promoted to work on adhoc basis ^{pending} in the regular selection. The applicant was selected and after selection he claimed that he may be given preference over his juniors who were officiating on adhoc basis and who were also placed on the panel below the applicant. By letter dated 28.11.1989, the applicant was posted as Ghat/Passenger Driver and was regularised. The applicant submitted the representation alongwith others on 15.12.1989 stating that, the Passenger Drivers ~~is~~ posted at Igatpuri in

accordance with the seniority assigned to the Drivers by the Selection Committee, and the senior drivers from amongst the drivers working at Igatpuri are posted at Lonavala and then at Bombay VT as Mail or Express Drivers, and the posting was strictly followed as per seniority assigned to them in the selection panel, but this time, the said procedure was not followed and juniors were being posted to work at Igatpuri and Lonavala showing favouritism. As the applicant found vide letter dated 1.3.1990 the Respondents is giving preference to juniors who were posted on adhoc basis, for the purpose of working in Ghat Section on the basis of "First in" "First Out" ~~as~~ against the rule 127 of the Railway Establishment code, in as much as adhoc appointees who were not to get any claim for the post after panel is formed, yet the same has been done.

2. It is learnt from the reply of the respondents, that the respondents have disputed the claim of the applicant and have stated that the applicant has earlier refused to undergo training of passenger Driver and the juniors who had been sent for training in the event of the refusals from seniors they were posted at VT vide letter dated 24.1.190. The post of Passenger Driver was not classified as non-selection, otherwise the applicant would have lost his seniority on refusal of promotion. The applicant has been given seniority of passenger driver being the selection post. The posting of Ghat Drivers has always been on the basis of 'first in first out' and not strictly as per seniority. Due to gap between two selections, the large number of Motorman were working as Passenger Drivers on adhoc basis and they were further put to work as Ghat Drivers after due training.

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It has been ~~stated~~stated that the Principle of transfer/promotion ~~that~~ in the post^s also being followed due to the non-availability of selected persons. The posting of Passenger Driver, VT to Igatpuri Ghat, on promotion then rotating Igatpuri to Lonavala and from Lonavala to V.T. is made as per principle of posting on the basis of first in first out basis. In terms of Railway Board's letter dated 21.1.1965, the employees who refused promotion will take his seniority from the date of his re-promotion, and as such the selected passenger Driver who refused promotion as Ghat Drivers had lost their seniority and on their re-promotion followed the principle of first in first out. They have stated that the recognised Union has taken issue, and that 30 % pay of running staff is taken into consideration for determining various allowances such as DA, HRA, CA. However, this has nothing to do with the place of posting as no actual amount of mileage is included in pay for the purpose of payment of various allowances. The grievance of the applicant is that, they have ~~being~~^{been} deprived of these allowances and these who were junior to him are not entitled to be posted as such and in this connection they have placed reliance on the letter dated 24.1.1990, which laid down 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.

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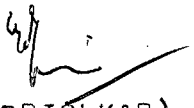
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2. After the prescribed training the employee should work as passenger driver at least for a period of 6 months.
3. The passenger driver is posted to work at IGP as Ghat Driver, Grade Rs.1640-2900(RPS) after prescribed Ghat training.
4. I.G.P. Ghat 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 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 Driver 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 ^{at} IGP ghat which they are not entitled to under the Railway Board's direction referred to above. The necessary consequences will be that they alone are to be posted as a result they will not be deprived of their allowances. When both those juniors and seniors have been empaneled, obviously, the posting is in hands of the Railway Administration. Once an employees gets the adhoc offer to work as Ghat Driver, they cannot be deprived ^{of} the same merely because, there was applicant's earlier refusal and ^u later on 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.

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to consider. It has laid down certain guidelines ~~for it~~ in ~~the~~ 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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