

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No: 1198/92.

~~Transfer Application No:~~

DATE OF DECISION 23.4.1993

Shri R.A. Dutubuddin.

Petitioner

Shri G.K. Masand

Advocate for the Petitioners

Versus

UNION OF INDIA & ORS.

Respondent

Shri J.G. Sawant.

Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice MS. Deshpande, Vice-Chairman,

The Hon'ble Shri 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 ?

(M.S. DESHPANDE)  
VICE-CHAIRMAN.

NS/

It has since been decided that change of category may be permitted in respect of Office Clerk only. In respect of technical staff, however, change of category should not be permitted.

In any case necessary sanction of the HOD has to be obtained before permitting a change."

4. According to Shri Masand the learned counsel for the applicant the instructions issued do not prohibit a <sup>but required</sup> change. ~~the~~ permission of the HOD for change of category. In our view, this is not proper reading of the instruction. The first paragraph only states the background. In the second paragraph the decision was taken that the change of category could be permitted in respect of Office Clerk only. This is further clarified by saying that in respect of technical staff however, change of category should not be permitted. With the emphasis so put in it is difficult to accept the submission that, in any case, apart from the case of office clerk also the change could be brought about with the sanction of the HOD. ~~This means~~ To accept the argument on behalf of the applicant <sup>would be in language</sup> strain ~~the~~ option and defeat the very purpose for which the instructions came to be issued.

5. It was not as if ~~that~~ the applicant was not aware of the requirements of the notification. The notification invited applications from the ministerial staff. The applicant did not belong to that category. According to the respondents it was due to an error that his application came to be processed and training was imparted to him and he came to be selected ultimately and was appointed for two months before the cancellation was made on 6.11.1992. There can be no estoppel in the present case, because there was no representation to the applicant that he was qualified and acting on that representation he sought the change in category. The applicant was aware of the limitations imposed by the

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CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Review Petition No. 67/93 in  
Original Application No. 1198/92

Shri Rafique Ahmed Qutubuddin

... Applicant.

V/s.

Union of India and others.

CORAM: Hon'ble Shri Justice M.S. Deshpande, Vice Chairman

Hon'ble Shri M.Y. Priolkar, Member (A)

Tribunal's order on Review Petition by circulation.

¶ Per Shri M.Y. Priolkar, Member (A) ¶

Dated 4.10.93

① This review petition (R.P. No. 67/93) has been filed by the applicant in OA No. 1198/92 against our judgement dated 23.4.1993 in that O.A. By that judgement, we had dismissed the O.A. holding that it was clearly a case of an error in allowing the applicant a benefit to which he was not entitled.

2. A review of this judgement is sought on the ground that a document dated 25.7.1992 has since come into possession of the applicant. According to the applicant, it is clear from this document that some employees belonging to some other divisions of the Railway and identically placed like the applicant were also given similar benefit which is still not withdrawn from them, unlike in the case of the applicant.

3. Although there is a delay of little over a month in filing this review petition, we condone the delay and proceed to consider this review petition by circulation.

4. We have perused the review petition. We do not see any error of fact or of law in our judgement dated 23.4.1993. We are also not satisfied that with reasonable diligence, the applicant could not have produced the order dated 25.7.92 (which he has now annexed to the review petition) and made his submissions thereon before the judgement was delivered on 23.4.1993,

Even otherwise, merely because some employees in some other divisions are wrongly given a benefit inspite of instructions to the contrary will not entitle the applicant to claim the benefit. We do not see any sufficient reason to warrant a review of our judgement dated 23.4.1993. The review petition is rejected.



(M.Y. PRIOLKAR)  
MEMBER (A)



(M.S. DESHPANDE)  
VICE CHAIRMAN

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