

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 309/92
Transfer Application No.

Date of Decision : 22.3.95

U.M. Budhrani

Petitioner

Shri K.B. Talreja

Advocate for the
Petitioners

Versus

Union of India and others

Respondents

Shri S.C. Dhawan

Advocate for the
respondents

C O R A M :

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

The Hon'ble Shri P.P. Srivastava, Member (A)

- (1) To be referred to the Reporter or not ? —
- (2) Whether it needs to be circulated to
other Benches of the Tribunal? *W*


(M.S. Deshpande)
Vice Chairman

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 309/92

U.M. Budhrani

...Applicant

V/s.

Union of India through
The General Manager,
Central Railway
Bombay V.T.

The Divisional Railway Manager
Central Railway,
Bombay V.T.

.. Respondents.

CORAM: Hon'ble Shri Justice M.S. Deshpande, Vice Chairman
Hon'ble Shri P.P. Srivastava, Member (A)

Appearance:

Shri K.B. Talreja, counsel
for the applicant.

Shri S.C. Dhawan, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 22.3.95

¶ Per Shri M.S. Deshpande, Vice Chairman ¶

By this application the applicant seeks arrears of pay from the date he was declared successful in the written test for the post of Chief Ticket Inspector in the grade of Rs. 2000 - 3200 (RPS) and consequent retiral benefits together with 15% interest.

2. The applicant was at serial No. 4 against the list of successful candidates in the test held for Chief Ticket Inspectors in the grade of Rs. 2000 - 3200 published on 8.1.91. The applicant had retired from service on 30.9.90 as Assistant Chief Ticket Inspector. According to him he was declared successful for the post of Chief Ticket Inspector and his name figured in the list

....2..

of successful candidates, but he was not allowed to continue though those who had failed in the selection were allowed to continue as Chief Ticket Inspector. The contention is that those who have failed in the examination had been appointed on adhoc basis.

3. The respondents have stated the factual position in the written statement. According to them, the selection process began with the approval of the competent authority on 31.7.87, but the selection process was postponed because of some representation received from the recognised unions for maintaining the position of the SC/ST employees. Before declaring the selection on the basis of reservation policy, the Railway Board issued instructions on 19.4.88. In the meanwhile, one S.W. Damodare filed an application TA 15/87 before this Tribunal and obtained the stay on 6.1.87 to the process of the selection; that stay was vacated on 29.3.89 and fresh notification came to be issued. Pursuant to that notification, the written test was held on 17.3.90 and the list of candidates who would be considered for viva-voce test was notified on 14.6.90. Provisional panel of 42 employees ^{was} ~~were~~ prepared and six vacancies ^{were kept} for absent employees. ~~list~~ was published on 29.9.90 with the approval of the competent authority. The applicant was at serial No.46 of the panel but he retired from service with effect from 30.9.90. The final panel of 48 persons were published on 8.1.91 and in that list the applicant stood at serial No.46. The contention of the respondents is that they withheld the list on account of stay obtained by S.W. Damodare and the list of 42 persons empanelled was issued on 28.9.90. The vacancy ^{ies} which accrued earlier had to be filled in

8

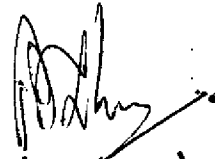
on adhoc basis and this was done in the order of seniority.

4. Considering the facts urged by the applicant we find that as per the notification though he ~~could~~^{may} have ~~been~~ qualified he cannot seek an appointment after the date of superannuation. Since the selection process was completed after his retirement, no exception can be taken if an adhoc appointment is continued. It must be noticed that none of the juniors to the applicant were posted to officiate as Chief Ticket Inspector on adhoc basis till his superannuation.

5. The learned counsel for the applicant relied upon 509, Swamy's Case-Law Digest 1993 in the case of G Radhakrishna Sharma Vs. Union of India and others decided on 28.7.92 by the Hyderabad Bench of this Tribunal wherein it was held that:

" Grant of adhoc promotion to ineligible senior to avoid regular promotion to eligible junior, improper."

The facts there were different and we find that the ratio laid down in that case is also different. In the result, we see no merit in the application. Accordingly, O.A. is dismissed. No order as to costs.


(P.P. Srivastava)
Member (A)


(M.S. Deshpande)
Vice Chairman