

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 587/92

Exhibit Application No:

DATE OF DECISION 16.4.1993

Shri B.R.Vikhankar & Ors. Petitioner

Shri G.S.Walia 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 M.S.Despande, Vice-Chairman,

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

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


(M.S.DESHPANDE)
VICE-CHAIRMAN

NS/

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, BOMBAY BENCH,

BOMBAY.

Original Application No.587/92.

Shri B.R.Vikhankar & Ors.

.... Applicants.

V/s.

Union of India & Ors.

.... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,
Hon'ble Shri M.Y.Priolkar, Member(A).

Appearances:

Shri G.S.Walia for the applicant.

Shri J.G.Sawant for the Respondents.

Oral Judgment:-

(Per Shri M.S.Deshpande, Vice-Chairman) Dt. 16.4.1993.

By this application, the applicants seek quashing of the order dt. 1.6.1992 by which they were sought to be reverted to the post of Fitter Gr.I.

2. Pursuant to the recommendation of the IIIrd Pay Commission the Department of Railways by letter dt. 14.2.1986 introduced the category of Master Craftsman in the artisan category in the scale of Rs.425-640.

The Respondent No.2 called for option from amongst Master Craftsman with a very clear stipulation that the post was to be terminal post and the selected employees would not be eligible for any further advancement beyond the position and the grade of Master Craftsman. The present 8 intervenors who have filed Misc. Petition No.884/92 did not give an option for being selected as Master Craftsman. The applicants were interviewed and were selected and came to be appointed as Master Craftsman w.e.f. 2.3.1987 on regular basis. By the letter dt. 1.6.1992 the Respondent No.2 reverted the

....2.

applicants to the original post of Fitter Grade.I and this action is being challenged by the present applicants. The Respondents did not question the position that the effect of the letter dt. 17.10.1990 Ex. 'E' to the intervenors application, was not to revert the Master Craftsman so selected to the post of Fitter Gr.I. All that letter indicated was that after a rethinking it was decided in partial modification of the scheme that the persons fitted in the grade of Master Craftsman may also be considered for further progression to Supervisory posts along with other Skilled Gr.I, Artisan Staff as per modalities envisaged in the Board's letter dt. 29.9.1987. It was however, made clear so that the relative seniority list prepared for consideration of promotion of Chargeman and or Mistry in terms of letter dt. 29.9.1987 shall not be disturbed, by reason only of one's fitment in the grade of Master Craftsman. Para three of that letter clarified that these orders were to have prospective effect.

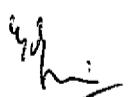
3. The intervenors contention is that they had not given their option for the post of Master Craftsman. From the representation that it was to be a terminal post and since there had been a modification of the scheme they would be entitled to be considered for the post of Master Craftsman and that they were supported from the order of reversion passed in respect of the applicants.

4. It is however, clear that since the intervenors had not given their option for the post of Master Craftsman when the offer was being made because that post was to be terminal and no further promotions were contemplated and the applicants had given their option despite the handicap for being considered and were being appointed in the post. Merely because the scheme later changed the position of

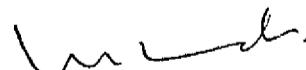
(9)

the applicants cannot be jeopardised ^{as} and all that was done by the Respondents was to extend to them also the benefit of a further progression in terms of the Railway Board's letter dt. 7.10.1990 ^{which had} did not contemplated any reversion of the persons who were selected as Master Craftsman to the post of Fitter Gr.I. The step taken by the respondents reverting the applicants to the post of Fitter Gr.I from that of Master Craftsman by the letter dt. 1.6.1992 cannot be supported. We see no substance in the representation of the intervenors that the applicants cannot have it both ways i.e. enjoy the post of Master Craftsman and also have the benefit of a further promotion in view of the modification brought about by the Respondents. They ^{had} accepted the offer with all handicaps and they cannot be now denied the present position ~~that~~ though it now turned to their advantage because such a situation could not have been foreseen by them.

5. In the result, we reject the plea of the intervenors and quash the order dt. 1.6.1992 Ex. 'E'. Passing any fresh orders about impleading the intervenors as per Misc. Petition No.844/92 now does not arise in view of the orders passed on 20.10.1992 giving them an opportunity of hearing in opposition to the application.



(M.Y.PRIOLKAR)
MEMBER(A)



(M.S.DESHPANDE)
VICE-CHAIRMAN

B.