

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 1120/93

DATE OF DECISION: 28/02/2001

Shri R.D. Deharia ----- Advocate for
Applicant.

Versus

Union of India & 19 Ors. ----- Respondents.

Shri S.C.Dhawan -----Advocate for
Respondents.

Hon'ble Shri Justice Ashok Agarwal, Chairman.
Hon'ble Smt. Shanta Shastry, Member(A)

1. To be referred to the Reporter or not
2. Whether it needs to be circulated to other Benches of the Tribunal?
3. Library. [✓]

Shanta F
(SHANTA SHAstry)
MEMBER(A)

abp

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:1120/93
DATED THE 28TH DAY OF FEB, 2001**

**CORAM:HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE SMT. SHANTA SHAstry, MEMBER(A)**

Shri Chandrasen Kondiba Bansode
Head Travelling Ticket Examiner,
Central Railway,
Resident of Railway Quarter No.RB.II/12/2,
Near Divisional Railway Manager's Office,
Solapur (MS) Pin 413 001. Applicant

By Advocate Shri R.D.Deharia

V/s.

1. Union of India, Through
The General Manager, Headquarters Office,
Central Railway, Bombay VT.
2. The Divisional Railway Manager,
Central Railway, Divisional Office,
Solapur (MS) Pin 413 001
3. Shri K.K.Konade,
Assistant Chief Ticket Inspector H.T.C.Office,
through Station Manager, Central Railway,
Solapur Station.
4. Shri S.P.Shaikh,
Assistant Chief Ticket Inspector H.T.C.Office,
through Station Manager, Central Railway,
Solapur Station.
5. Shri S.M.Katti, Senior Conductor,
H.T.C.'s Office, Through Station Manager,
Solapur Station, Central Railway,
Solapur.
6. Shri J.D.Khan, Senior Conductor,
H.T.C's Office,
Through Station Manager, Central Railway,
Solapur.
7. Shri P.A.Hussain, Senior Conductor,
H.T.C.'s Office, Through Station Manager,
Solapur Station, Central Railway,
Solapur.
8. Shri S.D.Chincholkar, Senior Conductor,
H.T.C's Office, Through Station Manager,
Solapur Station, Central Railway, Solapur.
9. Shri S.Farooqsha Hussainsha,
Senior Conductor, H.T.C's office,
Through Station Manager, Solapur Station,
Central Railway, Solapur.

:2:

10. Shri Bhanudas P.Kamble, Senior Conductor, H.T.C's Office, Through Station Manager, Solapur Station, Central Railway, Solapur.
11. Shri A.Gafoor A Ganisab, Assistant Chief Ticket Inspector, H.T.C's Office, Through Station Manager, Solapur Station, Central Railway, Solapur.
12. Shri M.R.Shaikh, Senior Conductor, H.T.C's Office, Through Station Manager, Solapur Station, Central Railway, Solapur.
13. Shri G.S.Ghatnekar, Senior Conductor, H.T.C.'s Office, Through Station Manager, Solapur Station, Central Railway, Solapur.
14. Shri Y.R.Pardeshi, Senior Conductor, HTC's Office, Through Station Manager, Solapur Station, Central Railway, Solapur.
15. Shri G.K.Hussain, Hd TTE, HTC's Office, Through Station Manager, Solapur Station, Central Railway, Solapur
16. Shri S.P.Mahindrakar, Hd.TTE, HTC's Office, Through Station Manager, Solapur Station, Central Railway, Solapur.
17. Shri V.H.Bagewadi, Hd.TTE, HTC's Office, Through Station Manager, Solapur Station, Central Railway, Solapur.
18. Shri Md.Afzal Yusuf, Hd TTE, HTC's Office, Through Station Manager, Solapur Station, Central Railway, Solapur.
19. Shri R.K.Waghmare, Hd TTE, HTC's Office, Through Station Manager, Solapur Station, Central Railway, Solapur.
20. Shri A.G.Wankar, Hd TTE, HTC's Office, Through Station Manager, Solapur Station, Central Railway, Solapur.

... Respondents.

By Advocate Shri S.C.Dhawan

(ORAL) (ORDER)

Per Smt.Shanta Shastry, Member(A)

The applicant has prayed that he should get his seniority fixed from his initial date of appointment i.e. 25/3/1965 in the absorbing cadre of Ticket Collector. The applicant is aggrieved that because of this denial of seniority, he has been denied promotion to the post of Senior Conductor and Assistant Chief

...3.

Ticket Inspector. He has sought directions to fix his seniority and give the consequential arrears based on his having been deemed to having been promoted as Senior Conductor and Assistant Chief Ticket Inspector.

2. The applicant was regularly posted as Telegraph Signaller from 19/3/65 at Solapur Station and was continued as such till February 1976. According to the applicant the Railway Administration decided to close the circuits due to modernisation and the decision was taken by the Railway Authorities in one of the Permananet Negotiating Machinery Meetings held on 4/6/1975 with the recognised Labour Organisation and also work study was conducted and about 15 posts of Telegraph Signallers were deemed rendered surplus. Thereafter, a notification was issued by the Railway Administration on 17/7/75 asking for options for absorption as Assistant Station Masters and other categories. In response to the said notification, the applicant submitted his application for absorption as Ticket Collector. After successful completion of training, the applicant was regularly posted as Ticket Collector. Thereafter he was promoted as Senior Ticket Collector vide letter dated 23/2/77 with retrospective effect from 22/7/76. The Respondents also published a provisional seniority list and finalised the same on 10/7/84. In this the applicant was shown at Sr.No.115, 19 juniors were shown above him. The applicant represented against the same. However, his representation was rejected. Thereafter, the applicant could not get promotion to the post of Senior Conductor and Assistant Chief Ticket Inspector because of his down gradation in the seniority list. Applicant therefore prays that since he was declared as surplus, he cannot be made to lose his seniority by not counting

his earlier service and hence, consequentially, he would be entitled to the promotions which have now been denied to him.

3. The respondents point out that the applicant's transfer was at his own request and not because of shrinkage or because of his having been declared surplus. The Railways had issued a notification on 25/10/75, which was circulated to all concerned at Solapur Division under the Divisional Superintendent Solapur's letter dated 12/11/75. A request from serving employees of commercial and operating department and ministerial staff were to be considered for absorption as Ticket Collector against the existing vacancy as a change of department. In pursuance of this letter, 95 employees including the applicant requested for transfer from their present cadre to the cadre of Ticket Collectors. Accordingly, his request was accepted and he was transferred. There were certain conditions stipulated in this letter, one of them was that the applicant should voluntarily accept the bottom seniority in the cadre of Ticket Collector. Therefore, the applicant had to be placed at the bottom of the seniority list when he was transferred to the cadre of Ticket Collector as per his own request. This being so, the applicant cannot now raise the question of his seniority as he was fully aware of this condition.

4. The learned counsel for the respondents also produced in original, a letter from the applicant addressed to the Chief Personnel, Officer, South Central Railway, Secunderabad dated 5/11/1972 in which the applicant had expressed his desire to get himself absorbed in the commercial department as Ticket Collector or Commercial Clerk. Moreover, he was prapered to accept the bottom seniority on absorption for commercial deparmtnent. Thus, there is clear evidence that the applicant on his own had sought

the transfer and had given his willingness to accept the bottom seniority. The learned counsel for the Respondents has also shown us some other documents indicating the conditions that were prescribed and how at each stage the concerned officers were asked to make sure that these conditions were complied with before the applicants were finally transferred.

5. We have given careful consideration to the pleadings on both sides and we find that the applicant is seeking to restore his original seniority of 1965 at this belated stage in 1993. In between the seniority list was published in 1984, though the applicant had represented against the same, he received a regret reply, The applicant has not approached this Tribunal at that time plus the application really suffers from delay and laches and on this ground also it does not deserve to be considered.

6. On merits also we find that it is a clear case where the applicant has himself opted for the transfer and absorption in the cadre of Ticket Collector with the full knowledge that he would be losing his seniority and would get only, the bottom seniority.

7. In view of this factual position, now the applicant is estopped from raising that issue. We therefore do not find the OA maintainable, being devoid of merits. The OA is accordingly dismissed. No costs.

Shanta S

(SHANTA SHAstry)
MEMBER(A)

A. Agarwal

(ASHOK AGARWAL)
CHAIRMAN

abp