

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 64/94

Date of Decision : 19.4.2001

Selvaraj John _____ Applicant

Shri L.M.Nerlekar _____ Advocate for the
Applicant.

VERSUS

Union of India & Ors. _____ Respondents

Shri S.C.Dhawan _____ Advocate for the
Respondents

CORAM :

The Hon'ble Shri B.N.Bahadur, Member (A)

The Hon'ble Shri S. L. Jain, Member (J)

- (i) To be referred to the reporter or not ?
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ?
- (iii) Library

B.N.B

(B.N.BAHADUR)
MEMBER ('A) 6

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.64/94

Thursday this the 19th day of April, 2001.

CORAM : Hon'ble Shri B.N.Bahadur, Member (A)

Hon'ble Shri S.L.Jain, Member (J)

1. Selvaraj John
2. Chalyal Kunjupillay Prasannan

Both are Store Issuer
under Loco Foreman (Diesel),
Central Railway - Kurla
Bombay.

...Applicants

By Advocate Shri L.M.Nerlekar

V/S.

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

...Respondents

By Advocate Shri S.C.Dhawan

O R D E R (ORAL)

(Per : Shri B.N.Bahadur, Member (A))

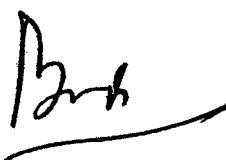
This is an application made by two applicants, Shri Selvaraj John and Shri C.K.Prasannan, who are both aggrieved by their reversion from the post of Store Issuer Gr.950-1500 w.e.f November, 1993. The applicants were initially appointed as Casual Labour, then taken on Monthly Rated basis, and further promoted as Diesel Cleaner. They were both promoted as Store Issuers w.e.f. 12.6.1985. The case made out by them in their OA. as also through the arguments before us by their learned counsel, Shri L.M.Nerlekar, is that they were wrongly reverted from the

B.S

said post in November, 1993. This is a grievance with which the applicants have come up to this Tribunal, seeking the relief as set out in para 8 of the OA. The relief sought is that respondents be restrained from reverting the applicants from Class-III to Class-IV, i.e. from the post of Store Issuers to Khalasi. Consequential reliefs are also sought.

2. Learned counsel for the applicant made a point that for long period of about 8 years the applicants were officiating on the post of Store Issuers. He quoted the case of Rudra Kumar Sain & Ors. vs. Union of India & Ors. reported in 2000 SCC (L&S) 1055 to seek support on the contention that persons who had officiated for long periods could not be reverted. Another point made by the learned counsel was with reference to the comments at pages 11 to 15 or the paper-book to show the nature of their appointment and also to show that the posts were available all along. Learned Counsel also made a point that subsequently in 1997 when posts again become available, the applicants were not considered. On this point he dilated for considerable time, giving examples.

3. The respondents have filed a written statement in the case where the facts and contentions taken have further been sought to be substantiated by arguments by their learned counsel, Shri S.C.Dhawan. The case of the respondents in written statement, pleadings and oral arguments is that applicants were working as Store Issuers only in officiating capacity, when it



was found that posts were not available. They were working on an officiating arrangement. The reason given out for reversion is that posts were not available when reversion was resorted to. It is also pointed out by the learned Counsel that the applicant is not now free to agitate in regard to the grievance he had for the action in not considering him for promotion as Store Issuer in 1997 since this is not pleaded. He also stated that this line of promotion was not the normal line of promotion for persons like the applicant and that they have their own line of promotion. On instructions, he also informed us that they have been further promoted subsequently in their line. Learned counsel also took support from the case decided by Full Bench in this Tribunal Ram Lubhaya & Ors. vs. Union of India, reported at 2001 (1) ATJ 40 to make the point that the ratio decided held the stand of the respondents in principle.

4. We have considered the arguments made before us and have gone through the papers including the rejoinder and other documents filed. In the first place, we find that admittedly the arrangements were made on officiating basis. On this there is no dispute. It is also true that they continued for a long period of 7-8 years, even we do not give much importance to the point made by the respondents that they were not ordered by the competent authority. The facts and the reasons given for the reversion are important. It is clearly stated that the reversion was made for want of posts. It cannot be stated to be an action suffering from infirmity as per settled law.

Babu

5. We have also considered the judgement made by the Hon'ble Supreme Court in the matter of Rudra Kumar Sain & Ors. vs. Union of India & Ors. (2000 SCC (L&S) 1055) cited by applicants' learned counsel. The facts and circumstances and the ratio decided do not help the present case. In Rudra Sain's case the point taken was that the appointment was made by competent authority and all other conditions were satisfied. The ratio of this judgement does not apply to the present case.

6. In regard to point made about opportunity not been provided for consideration for promotion in 1997, we clearly find that this is not a cause of action being agitated before us. The learned counsel for the applicant did say that he has mentioned this in the rejoinder. Mentioning in the rejoinder without proper amendment does not entitle a grievance for consideration by the Tribunal. We obviously cannot and do not go into this point. If the law of limitation allows applicant to agitate the point in an appropriate court, applicant can well take up the matter separately. The ancillary grievances in this regard, therefore, also cannot be gone into by us.

7. The copies of communication available on pages 11 onwards were also considered by us. These are inter/intra dept. communications. Also they pertain to the period prior to 1997. They provide no help to the applicant.



OA 64/94.

: 5 :

8. Considering the discussion above, we see no case for interference in the matter by the Tribunal. The OA. is, therefore, dismissed. There will be no order as to costs.

S.L.Jain
(S.L.JAIN)

MEMBER (J)

B.N.Bahadur
(B.N.BAHADUR)

MEMBER (A)

mrj.