

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 236/94

Date of Decision: 25.6.1999

Sh. Anil Chidambare

Applicant.

Sh. Ramesh Ramamurthy

Advocate for
Applicant.

Versus

U.O.I. & ors.

Respondent(s)

Sh. V. S. Masuskar

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice K.M. Agarwal, Chairman

Hon'ble Shri. R.K. Ahooja, Member(A)

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

AK
(K. R. K. Ahooja)
Member(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
MUMBAI

O.A. No.236/94

THIS THE 25TH DAY OF JUNE, 1999.

HON'BLE MR.JUSTICE K.M.AGARWAL, CHAIRMAN
HON'BLE MR.R.K.AHOOJA, MEMBER(A)

1. Shri A nil Chidambare
working as Waiter in the
Dining Car Unit at Bombay
Central on Western Railway.
2. Shri Puran Singh working
as Bill Issuer in
Bombay Central
3. Shri S.P.Muthu (S.C.)
working as Waiter
in the Railway Restaurant
at Bombay Central.
4. Shri Abbas Ali working as
Waiter in the Dining Car
Unit at Bombay Central
Western Railway

... Applicants

C/o Ramesh Ramamurthy, Advocate
High Court, A-6, Bhagirath, J.P.
Nagar, Pahadi School Road,
No.2, Goregaon (East),
Bombay-400 063

(BY ADVOCATE SHRI RAMESH RAMAMURTHY)

vs.

1. The General Manager,
Western Railway
Churchgate,
Bombay-400020
2. The Chief Catering Services
Manager, Western Railway
Churchgate, Bombay-400020.
3. The Assistant Catering Manager
(Ctg.) (Mobile)
Western Railway
Bombay Central,
Bombay.
4. The Chief Catering Inspector
Western Railway
Bombay Central,
Bombay-400008.

... Respondents

(BY ADVOCATE SHRI V.S.MASURKAR)

ORDER

R.K.AHOOJA, MEMBER(A):

The applicants 4 in number are employed on the
Western Railway as Waiters in the scale of Rs.775-1025
(Pre-revised). They claim that intermittently applicant

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Nos.1, 3 and 4 have worked as Bill Issuer on trains, While applicant No.2 was regularly promoted as Bill Issuer when he was working in Ajmer Division by an order dated 11.9.1987. However, applicant No.2 was wrongly made to appear in a test held in March 1990 for the purpose of regularisation as Bill Issuer but was later on reverted on the ground that he had failed in the test. The grievance of the applicants is that by impugned order dated 28.10.1993, the second respondent, the Chief Catering Services Manager has allowed a number of juniors to the applicants to work as Bill Issuer ignoring the claim of the applicants. The applicants state that on the basis of certain restructuring orders issued by the Railway Board dated 27.1.1993, the posts of Bill Issuers have been increased with effect from 1.3.1993. The applicants claim that these posts have to be filled on the basis of seniority with reference to the service record and not on the basis of any selection or non-selection method. On the other hand, the respondents are proposing to hold an examination as per circular dated 23.12.1993 calling upon the applicants and others to sit for a written examination. The applicants have come to the Tribunal with a prayer to quash the impugned order dated 28.10.1993 and seek a direction to promote them as Bill Issuers without undergoing any written examination.

2. The respondents in their reply state that the deployment of persons mentioned in the impugned order dated 28.10.1993 is only for a short period. They also say that as per restructuring orders, the number of Bill Issuers has in fact been reduced from 22 to 18. They also deny that applicant No.1 has ever worked as Bill Issuer though they admit that the services of applicant No.2 have been utilised as Bill Issuer as a stop-gap arrangement.

3. We have heard the learned counsel. The contention of the applicants that they had been either promoted or posted as Bill Issuers is not substantiated by any orders. Therefore, the applicants cannot claim that they have been reverted from the higher posts. In regard to the impugned order dated 28.10.1993, Exhibit 'A' we find that it is only a letter from CCSM to ACM (Catering) Mobile permitting him to deploy certain staff " to work on Mobile Units as Bill Issuers in acute shortage, ~~emerging~~ only after taking^a declaration in writing that they will not claim the seniority and post etc. if considered suitable." In the reply, the respondents have also stated that there is no question of working in a higher post ~~to~~ such persons as ~~and when~~ they are deployed as Bill Issuers in the absence of the regular staff. The impugned order dated 28.10.1993 does not constitute any supersession of the applicants.

4. In regard to the plea of the applicants that they should not be made to sit for written examination, we find that the grievance of the applicants is not only misplaced but is also pre-mature. The holding of the written examination is permissible under the rules. But without going into this question, we find that the number of posts of Bill Issuers as a result of restructuring ~~has~~ been reduced from 22 to 18. The applicants have thus failed to show that there is any vacancy for them to which they can make a claim even on the basis of their seniority. Therefore, without going into the question whether a written test can be held or not we find that at this stage there is no basis for the grievance of the applicants.

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5. Finding no ground for interference, we dismiss this
O.A. No costs.

Jon
(K.M.AGARWAL)
Chairman

R.K. Ahooja
(R.K.AHOOJA)
MEMBER(A)