

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 559/95

Date of Decision: 5/8/99

Shri R.N. Poojari

Applicant.

Shri K.B. Talreja

Advocate for  
Applicant.

Versus

Union of India & 8 Ors.

Respondent(s)

Shri R.R. Shetty

Advocate for  
Respondent(s)

CORAM:

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

Hon'ble Shri.

- (1) To be referred to the Reporter or not? *No*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *No*

*B. N. Bahadur*

(B.N. BAHADUR)  
MEMBER(A)

abp.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO:559/95.

DATED THE 5TH DAY OF AUGUST, 99.

CORAM:HON'BLE SHRI B.N.BAHADUR, MEMBER(A)

B.N.Poojari,  
(Commission Vendor/  
Catering Department)/  
D.R.M.(C)/C.Railway,  
Bombay - V.T.

R/o.1/4, Shivantha Niwas,  
Patharli Road, Patharli,  
Dombivli(East)-421 201.

... Applicant.

By Advocate Shri K.B.Talreja.

v/s.

1. The Union of India through  
The General Manager,  
Central Railway, Bombay V.T.,  
BOMBAY-400 001.
2. The Divisional Railway Manager,  
Central Railway, Bombay V.T.,  
BOMBAY-400 001.
3. The Chief Commercial Manager,  
Central Railway, Bombay V.T.,  
BOMBAY-400 001.
4. Shri Khemchand Khushwah,  
Class IV employee under  
C.C.M./C.Rly/Bombay V.T.
5. Shri Babusingh Mahrajsingh,  
Class IV employee under  
C.C.M./C.Rly/Bombay V.T.
6. Shri Narain Shetty,  
Class-IV employee under  
C.C.M./C.Rly/Bombay V.T.
7. Shri Katuaru Yadav,  
Class IV employee under  
C.C.M./C.Rly/Bombay V.T.
8. Shri S.D.Sharma,  
Class IV, employee under  
C.C.M./C.Rly/Bombay V.T.
9. Shri Ganesh Shantaram,  
Class IV employee under  
C.C.M./C.Rly/Bombay V.T.

... Respondents.

By Advocate Shri R.R.Shetty.

I ORDER I I ORAL I

This is an application made by the applicant Shri R.N.Poojari, working in the catering department of Central Railway seeking relief as follows:-

- (i) This Hon'ble Tribunal be pleased to direct the respondents to regularise the applicant in any of the Group 'D' post from the date, his juniors' have been regularised with consequential benefits.
- (ii) Award the cost of this petition.
- (iii) Any other directions as the Hon'ble Tribunal may deem justified.

2. I have heard the learned counsels appearing on both sides at some length. After the arguments, the crucial issues on which the case hinges came to notice through some of the documents submitted by the Applicant, both with the OA as also with the rejoinder dt. 18/12/97.

3. One crucial argument between the parties is the stand of the applicant that he is seeking regularisation on a Group 'D' post on account of his being a casual labourer. He has adduced various arguments including the fact that he holds Card No.335890. On the other hand, the counsel for respondents has argued that the applicant is merely a commission vendor and was never a casual labourer.

4. While these were being discussed and record perused with the assistance of learned

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counsels on both sides in open court, my attention is drawn to two seemingly contradictory documents, first one being Annexure-I which is a letter dated 27/1/84 on the subject titled "Screening of Commissioned Vendors/Bearers in Class-IV category". On the other hand, we have a Internal page<sup>6</sup> at Exhibit-A to the rejoinder dated 18/12/97, a document which mentions that the applicant, Shri R.N.Poojary, is a 'Casual Cleaner'. The latter document which is also a photocopy is not attested. Similarly, we have before us photocopies of pay sheets at Exhibit-B at Internal page-7 to 15 of the rejoinder. These are also not certified copies. They are also not admitted by the respondents or specifically denied. Learned counsel for respondents argues that they will need to see the original record.

5. Learned counsel for applicant also agrees that the original record may be seen as it will strengthen his case, he avers.

6. The important point that therefore becomes clear is that the authentic record will need to be gone into, and a considered opinion formed on the basis of such record, in regard to contesting claims being made by both sides. For one thing, uncertified copies of records produced cannot be relied upon. Secondly, it would not be in the fitness of things that this Tribunal goes through these records, or call <sup>for</sup> ~~them~~ for further records, and sit in a kind of enquiry to arrive at a conclusion on the issues raised, or to undertake a work which is

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to be done by the administration. Thus, it was felt that it would be in the best interest of justice to both sides that the respondents be asked to go through the case after procuring all the relevant documents and taking a decision as per rules and on merits. This proposition is agreed to by learned counsels on both sides in open Court.

7. At one point during arguments, the learned counsel for applicant indicated that his client had some spare copies of the documents of the substitute pay sheet issued to Catering Unit, copies of which have been produced at Exhibit-B of the Rejoinder. However, this Tribunal does not consider it necessary to see these as they were not part of the official records.

8. Accordingly the following orders are passed in this OA:-

(a) The respondents shall go through the full facts of this case afresh, with reference to the relief/s sought by the applicant in the present OA. All records relevant to the case may be gone through and a decision given *as per law and rules, on merits.* For this purpose, liberty is granted to the applicant to send a self-contained representation, within a period of one month from today. The respondents will take a decision thereon within a period of three months from the date of receipt of such a representation. The decision so taken will be communicated in writing to the applicant. The above OA is disposed of accordingly. No orders as to costs.

*B.S.*  
(b) If the applicant is not satisfied with the

final decision given, he will be at liberty to avail remedies available in law.

*Bn Bahadur*

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(B.N. BAHADUR)  
MEMBER (A)

abp.