

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 1080 of 1995.

Dated this Tuesday, the 23rd day of October, 2001.

Aasaram G. Rajput. Applicant.

None present. Advocate for the
Applicant.

VERSUS

Union of India & 4 others. Respondents.

Shri V. S. Masurkar. Advocate for
Respondents.

CORAM : Hon'ble Shri Justice B. Dikshit, Vice-Chairman.

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

(i) To be referred to the Reporter or not ?

(ii) Whether it needs to be circulated to other Benches of the Tribunal ?

(iii) Library.

BnB

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

OS*

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

Asaram G. Rajput,
Patkar Chawl, Tulaskarwadi,
Sai Nagar, M.G. Road,
Kandivli (West),
Bombay - 400 067.

... **Applicant.**

(By Advocate - None Present)

VERSUS

1. *Union of India through
The Secretary,
Ministry of Railway,
Rail Bhavan,
New Delhi.*
2. *General Manager,
Western Railway,
Churchgate,
Bombay - 400 020.*
3. *Divisional Railway Manager,
Western Railway,
Bombay Central,
Bombay - 400 008.*
4. *Shri Ratan G. Dhondikar,
C/o. Chief Traction (Overhead),
Foreman, Western Railway,
Bombay Central,
Bombay - 400 008.*
5. *Shri Ratan Singh K. Chauhan,
C/o. Chief Traction (O),
Foreman, Western Railway,
Bombay Central,
Bombay - 400 008.*

... **Respondents.**

(By Advocate - Shri V. S. Masurkar)



ORDER (ORAL)

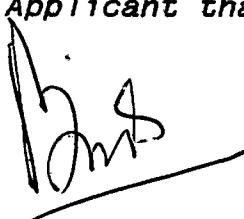
PER : Shri B. N. Bahadur, Member (A).

This is an application made by Shri Asaram G. Rajput, who seeks the relief from this Tribunal that it should hold the promotions of Respondent Nos. 4 and 5 as illegal and bad in law for the reasons and grounds taken and order the Respondents to revert them.

2. The facts of the case are, in brief, as follows :

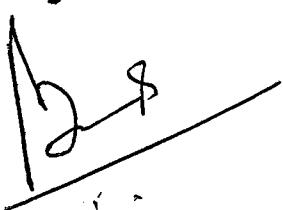
The applicant alleges that the process of selection for promotion from the post of Assistant Traction Foreman Overhead (A.T.F.O.) to the post of Traction Foreman (Overhead), has not been conducted legally and properly. (The scale of the former post is Rs. 1600-2660 and the latter post is Rs. 2000-3200.) The Applicant was working as A.T.F.O. when the Western Railway issued the circular dated 28.12.1989 notifying the process for ad hoc promotion of non gazetted employees setting out criteria of eligibility, etc. The Applicant seeks to draw attention to this circular and a letter dated 10.01.1991 in regard to the instructions to be followed.

3. The Applicant is before us challenging the order dated 03.07.1995, through which promotions have been made as a sequel to the promotion process taken. It is the grievance of the Applicant that persons shown at Sl. Nos. 4 and 6 of the order



dated 03.07.1995 (Exhibit 'A') are selected despite the fact that they are junior to him. It is stated in the grounds taken that they have been selected because of the reserved quota and that such reservation is against the law settled by the Hon'ble Supreme Court, since the quota has already been exceeded. It is, therefore, his contention that these persons, who are Respondent Nos. 4 and 5, are not eligible to be promoted to the post of Traction Foreman (Overhead). The law settled by the Hon'ble Supreme Court in the various well known cases is then discussed in the O.A., and contentions taken on their basis.

4. The Respondents have filed a Written Statement of reply where the first point denied is that the Applicant is senior to Private Respondents No. 4 and 5. It is the stand of the Respondents that R-4 and R-5 are senior to the Applicant and hence there is no violation of the rules. In fact, during the arguments by their Learned Counsel, Shri Masurkar, it was emphasised that they were senior not only in the feeder grade, but also in the base grade seniority. This point was obviously taken with reference to the well known settled law in this regard by the Hon'ble Apex Court. The point is also taken that all promotions were made on ad hoc basis. Therefore, it is stated that these two persons, as indeed others, were promoted strictly in order of merits, and that the Applicant's name does not appear in the panel because his name was below the names of the aforesaid Respondents in terms of seniority. Reference in this regard is made to the orders at exhibit R-1. Further details are

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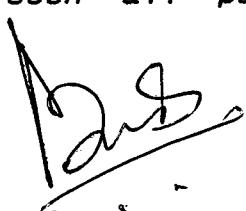
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set out in the reply statement, which also attempts to meet, parawise, the averments made in the O.A. Importantly, it is also stated that the representations made by the Applicant were duly replied to by the Respondents.

5. We have seen the papers in the case, including the rejoinder, sur-rejoinder, etc. and have heard the Learned Counsel for the Respondents. We note that the Learned Counsel for the Applicant has filed Written arguments which have been carefully gone through.

6. The Written arguments are self-contained in that, the basic details are all set and it is reiterated that the Applicant is senior to Respondents No. 4 and 5. Now we will take up this point first. Unfortunately, while going through the entire written argument and the other record and the seniority list appended at page 29, we are unable to get any evidence to prove that the Applicant is senior to either of the Private Respondents, namely - Shri Ratan G. Dhondikar and Shri Ratan Singh K. Chauhan. Seniority list at page 29 relates to seniority in A.F.T.O. i.e. the scale of Rs. 1600-2660. The assertions made in the Written arguments claiming seniority appear to be vague, in that, they are not backed up by any evidence/document, etc.

7. However, with a view to checking as to whether this seniority came about in view of escalated promotion, we have also seen all papers to ascertain whether in the base grade the



Applicant was senior. We must clearly state that we could find no papers which bring out this position. We do note, as has been stated, that the Applicant joined as early as in 1962 but he joined at the level of Khalasi and worked his way upward with a number of promotions before he reached the level even of A.T.F.O. Therefore, comparison of joining dates on different cadres will afford no help to the Applicant.

8. In the background of the Applicant not being able to prove his seniority with any concrete evidence and in the background of a clear assertion by Respondents about the fact that he is not senior to Respondents No. 4 and 5, we could safely conclude that the assertion of the applicant regarding his seniority over R-4 and R-5 is not proved.

9. A point regarding promotions being ad hoc has been made by both sides. In fact, this point is not very germane to the case before us. The Applicant also contends that Government policy bars any ad hoc promotion. We find that this point is irrelevant on both sides, especially in the background of the well known settled law in this regard.

10. Another argument taken in the Written Statement of arguments, as indeed taken at page 9 of the O.A., relates to the allegedly wrong calculation of the reserved post filled in. The Applicant contends that the reserved post quota has been exceeded and gives certain figures in the O.A. He has



reiterated this point in the Written arguments. This point has been covered at para 12 of the Written Statement of Respondents dated 08.03.1996. We have no evidence in the face of the statement made on facts by the Respondents to the effect that any miscalculation has been made or that the reserved quota has been wrongly exceeded, etc. This argument of the Applicant will, therefore not hold water.

11. In view of the discussions above, we find that the Applicant has not made out any case for our interference in the matter. This O.A. is, therefore, dismissed with no order as to costs.

B. N. Bahadur

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

B. Dikshit

(B. DIKSHIT)
VICE-CHAIRMAN.

OS*