

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 475/97

Date of Decision : 30.7.2002

Smt.P.V.Naidu

Applicant

Shri T.D.Ghaisas

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. BAHADUR)
MEMBER (A)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.475/97

Tuesday this the 30th day of July, 2002.

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

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

Smt.P.V.Naidu,
W/o Late Shri Vijay Naidu,
R/o Rly.Qrs.RB-II/375,
Ajni Rly.Colony,
Ajni, Nagpur.

...Applicant

By Advocate Shri T.D.Ghaisas

vs.

1. Union of India
through the General Manager,
Central Railway,
Mumbai CST, Mumbai.
2. Chief Personnel Officer (E),
G.M.'s Office, Central Railway,
Mumbai CST, Mumbai.
3. Divisional Railway Manager
(Personnel), Central railway,
Nagpur.

...Respondents

By Advocate Shri S.C.Dhawan

ORDER (ORAL)

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

The applicant in this case comes up to the Tribunal seeking the reliefs as follows :-

"8.(i) The Hon'ble Tribunal will be kind enough to quash the office order Exhibit-I in the interest of justice as the said order is against the laid down norms and rules and also against the well known principles of natural justice.

..2/-



(ii) The Hon'ble CAT may be pleased to call the records leading to the issue of office order Exhibit-I and after going through the legality or otherwise thereof, will be pleased to quash and set aside the impugned order/Ex.-I.

(iii) The Hon'ble Tribunal will be pleased to restrain implementation of Order Exhibit-I by issuing necessary injunction, if required.

(iv) The Respondents be saddled with cost of the Application and the Applicant be granted other reliefs as are expedient in the matter."

2. We have seen all papers in the case and have heard Learned Counsel on both sides, namely, Shri T.D.Ghaisas for the Applicant, and Shri S.C.Dhawan for the Respondents.

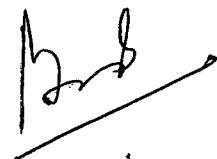
3. This case was heard on the last date (5.6.2002) partly, when after perusal of record and consideration of arguments, we had ordered as follows :-

" Applicant by Shri T.D.Ghaisas. Respondents by Shri S.C.Dhawan.

Ld. counsel heard for some time. In order to enable the Ld.counsel for Respondents to get full details regarding empanelment of applicant and Mr.Ambore, especially as to the position between 15.4.97 and 29.4.97, case adjourned.

List case on 28.6.2002 as Part-heard."

4. Today the Learned Counsel for the Respondents has produced the relevant records and we have seen them. In fact, some of the records are even shown to the Learned Counsel for the Applicant, as directed by us, since these are not confidential records.



5. The facts are that the Applicant, who was working as Head Typist and who belongs to Central Stores Department at Parel in Mumbai had been working on the construction site at Ajni near Nagpur. She had been provided with adhoc promotion to the Chief Typist where she continued to work upto 15.4.1997. On 15.4.1997 she was reverted, and one Mr.V.S.Ambhorey was posted in her place. This is the point of grievance of the Applicant.

6. Learned Counsel Shri Ghaisas who argued the matter at some length stated that it is true that a regular promotion order in respect of Applicant was issued later on 29.4.1997. She was posted to Parel and true that she did not accept this/carry out the transfer. Shri Ghaisas argued that the main grievance is as to why the Applicant stood reverted as between 15.4.1997 and 29.4.1997.

7. One of the points of the arguments of Shri Ghaisas, Learned Counsel was that even Shri Ambhorey was posted on adhoc basis and that this case is covered by the judgement in the matter of State of Haryana & Ors. vs. Piara Singh & Ors. - AIR 1992 SC 2130, since it is replacement of one adhoc person by another.

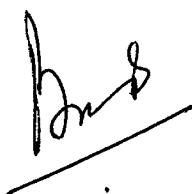
8. As stated in Roznama order of the last date which is relevant is to find out that is whether Shri Ambhorey had indeed better priority over the Applicant or any rights of Applicant were affected. The ratio of Piara Singh' case will not apply



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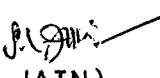
here. These are not open market candidates but are employees of the Railways as agreed by Learned Counsel for the Respondents, although he reminds that they are belonging to seniority Units. Now the record we have seen throws some important light on this case. The two important pieces of evidence are as follows :- firstly it is seen that Shri Ambhorey was empanelled for the post of Chief Typist on 10.5.1996 and this paper has been shown to us. On the other hand, the Applicant was empanelled for regular promotion for the post of Chief Typist only later, i.e. 24.4.1997. Now this is something that is very important and Learned Counsel Shri Ghaisas stated that if it was so, Shri Ambhorey should have been posted in 1996 only. This does not lie as a right for Applicant, who is in no way prejudiced. Here is a case of a person who was empanelled earlier and has been provided a post albeit only on 15.4.1996. The contention on behalf of the Applicant is that Respondents could have waited 15 days more. This cannot be asked for as a matter of right in the background of the position discussed above.

9. We have carefully gone through the reply statement of the respondents and in the background how posting has to be made out in Ajni have been explained. Regular appointment on the post of Chief Typist is entitled to the regularly selected candidates and once Shri Ambhorey is higher and comes earlier in the empanelment for regular selection, it can be concluded that no right of the Applicant is adversely affected.



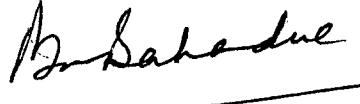
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10. Considering the entire facts of the case, we are not convinced that the case has been made out for intervention by us or for provisions of any relief. The OA. is therefore dismissed, with no order as to costs.


(S.L.JAIN)

MEMBER (J)

mrj.


(B.N.BAHADUR)

MEMBER (A)