

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 1003 of 1997

Dated this Friday the 6th day of September , 2002.

Hansraj Yadav & another

- Applicant

Shri S.P.Inamdar

Advocate for the
Applicant.

VERSUS

Union of India & others,

Respondents.

Shri V.D.Vadhavkar

Advocate for Respondents

CORAM : Hon'ble Mr.Justice Birendra 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 ?

} No

Pand

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

OS*

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CORAM : Hon'ble Shri Justice Birendra Dikshit, Vice-Chairman.
Hon'ble Shri B. N. Bahadur, Member (A).

1. Hansraj Yadav,
Asstt. Electrical Foreman,
Working at Electrical Loco Shed,
Western Railway,
Valsad - 396 001.
2. Praveen Waghmare,
Asstt. Electrical Foreman,
Working at Electrical Loco Shed,
Western Railway,
Valsad - 396 001. Applicants.

(By Advocate Shri S. P. Inamdar).

VERSUS

1. Union of India through
The General Manager,
Western Railway,
Churchgate,
Mumbai - 400 020.
2. The Chief Electrical Engineer,
Western Railway,
Churchgate,
Mumbai - 400 020.
3. The Divisional Railway Manager,
Western Railway,
Bombay Central,
Mumbai - 400 008. ... Respondents.

(By Advocate Shri V. D. Vadhavkar).

O R D E R (ORAL)

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

This is a peculiar case of the two Applicants, who have filed this O.A., having been selected for the post of Electrical Chargeman 'B' initially by Railway Recruitment Board for Kota Division. They could not be posted at Kota Division for lack of



vacancies. The General Manager of Western Railway posted them to Mumbai Division in August/September, 1991. In this connection, we find from a perusal of Annexure A-3 letter dated 13.09.1991 that while posting them at ^{Mumbai} Bombay Division a condition was placed that the Applicants shall not ask for transfer to any other Division unless they complete ten years of service at this unit. Also, that inter-railway transfer will not be considered. Obviously, the Applicants have joined without demur, accepting this condition.

2. The grievance of the Applicants here is that in Mumbai Division, when their turn came up for promotion to the post of Section Engineer, they were not considered for regular promotion and, in fact, even their juniors in Mumbai Division came to be considered for regular promotion. The Applicants have filed this O.A. with this grievance and seek the relief, in substance, as follows :

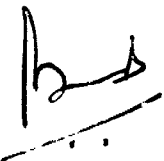
- "8.a) It be declared that applicants are regular employees of Bombay Division and hence entitled to all benefit of seniority and promotion in Bombay division including promotion to the post of Section Engineer in the pay scale of Rs. 2000-3200 (RP) and Revised Pay Scale to Rs. 6500-10500 (RPS) Electrical (TR) Department as per recruitment rules.
- b) That respondents their servants and agents be directed to continue the applicants to work in Bombay division as per the appointment order dated 13.9.91."

B.S.

....3/-

3. We have seen all papers in the case and have heard Learned Counsel on both sides, namely - Shri S. P. Inamdar for the Applicant and Shri V. D. Vadhavkar for the Respondents. It is fairly stated by both sides that in fact, when the Applicants came up in O.A.No. 70/2000 in grievance against their transfer to Kota, which was ordered in December, 1999, the application had been dismissed. No doubt, it was clearly stated in the judgement therein that issues being separately agitated in other O.As. are not being considered or decided. Learned Counsel Shri Inamdar took us over to the facts and grounds as enumerated in the OA and strenuously argued on that basis.

4. The stand taken by the Respondents and argued by their Learned Counsel, Shri Vadhavkar, is that - with reference to the conditions as imposed while posting Applicants to Bombay Division and the fact that it was also made clear (copy of latter at page 42) that the Applicants' lien will be maintained in Kota Division, their rights can only crystalise in Kota Division. They have no rights for consideration in Mumbai Division. In fact, Shri Vadhavkar, states that it has been mentioned in their pleadings at page 64 that the names of Applicants appear at Sl. No. 22 and 23 and is now numbered 19 and 20 respectively in the seniority list for ELCs scale. This is stated in the affidavit filed by Divisional Personnel Officer, Western Railway, Mumbai Central on 04.12.1998 and the list is appended.

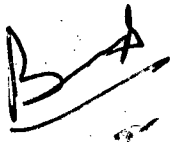


...4/-

5. After considering pleadings on both sides and oral arguments of Learned Counsel, we must note that the Applicants have clearly asked for the relief that they be held to be regular employees of Bombay Division and hence entitled to all benefits of seniority, promotion, etc. Now once a lien is kept in Kota Division and this position is undisputedly accepted as per rules and law, there is no doubt that any rights of the Applicant will come only in Kota Division. They cannot have rights in the Bombay Division and in view of this settled position of rules, no further discussions is needed to state that the prayer made at para 8(a) cannot be granted.

6. The second prayer is that Respondents be directed to continue the Applicants in Bombay Division. To this extent, their O.A. in grievance against transfer to Kota Division has already been rejected (O.A. 70/2000). In fact, even now, once we come to the conclusion that the relief sought at para 8 (a) is not admissible, we cannot consider directions to revert the Applicants to Bombay Division.

7. While, in view of the above discussions, we cannot provide the relief sought in the O.A., we must observe that since the rights of Applicants in Kota Division are not the issue in this O.A., we are not going into them; but it cannot be forgotten that even though Divisions are different, the main employer i.e.



....5/-

Respondent No.1, cannot be absolved of his duty to look after the rights of Applicants in Kota Division. Some pleadings to seniority in Kota Division has been made, as indicated above, but they pertain to 1998 and the present position has not been brought forth. The disposal of this O.A., therefore, will not affect the rights of the Applicants in Kota Division and in case they are aggrieved, it will be open to Applicants to agitate this matter before the Tribunal as per law only to that extent.

8. Subject to observations made above, this application is dismissed with no order as to costs.

B. Bahadur

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

OS*

B. Dikshit

(BIRENDRA DIKSHIT)
VICE-CHAIRMAN.