

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

O.A.No.989/98

Tuesday this the 10th day of December, 2002

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HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN  
HON'BLE MRS. SHANTA SHAstry, ADMINISTRATIVE MEMBER

1. Magjibhai Jatarbhai Bhoya,  
Head Clerk, Western Railway  
Headquarters Office, Station Building,  
3rd floor, Commercial Claims,  
Churchgate, Mumbai.20.
2. Bipinchandra Naginbhai Patel,  
Head Clerk, Chief Claims Officer  
3 rd floor, Station Building,Churchgate,  
Western Railway, Mumbai-20.
3. Kantilal Vestabhai Dodiya,  
Headclerk, Chief Claims Office,  
3rd floor, Station Building,  
Western Railway,Churchgate,  
Mumbai.20.
4. Ramubhai Patodiya Dhodi,  
Headclerk, Western Railway,  
Headquarters Office,Station Bld.  
3rd floor,Churchgate Mumabi.20.
5. Mrs. Leelavati Ramakant Keny  
Headclerk,Western Railway HQ Office  
Station Building, 3rd floor,  
Commercial Claims,Churchgaye,  
Mumbai.20.
6. Jayram Navshya Dongarkar,  
Headclerk,The Chief Claims Office,  
Western Railway, 3rd floor,  
Churchgate,Mumbai.20.
7. Mrs. Pusha Maheshkumar Patel,  
Headclerk,Chief Claims Office,  
3rd floor, Station Building,Western Railway,  
Churchgate,Mumabi.20.

(By Advocate Mr.S.P.Saxena)

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1. Union of India through the Secretary  
Railway Board, New Delhi.11.
2. The General Manager,  
western Railway Headquarters,  
Churchgate,Mumbai.20.
3. The Commercial Manager,  
Department of Commercial Claims,  
Western Railway, Churchgate,  
Mumbai.20.
4. Smt.V.A.Tamhane, Headclerk,  
GGOs Office Commercial Claims,  
Churchgate Station,Mumbai.20.
5. Shri K.C.Joshi, Head Clerk,  
CGO's Office, Commercial Claims,  
Chu chgate Station,Mumbai.20.

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6. Smt.V.V.Khamkar,  
Headclerk,CGO's Office  
Commercial Claims,  
Churchgate Station,  
Mumbai.20.
7. Kum.M.N.Samant,  
Head Clerk, CGO Ofitice  
Commercial Claims,  
Churchgate Station,  
Mumbai.20.
8. Kum.Laya Francis,  
Headclerk,  
CGO Office Commercial Claims  
Churchgate Station,  
Mumbai.20.
9. Smt.B.S.Trivedi,  
Head Clerk,  
CGO's Office,  
Commercial Claims,  
Churchgate Station,  
Mumbai-20.
10. Smt.N.M.Samant, Head Clerk,  
CGO's Office,  
Commercial Claims,  
Churchgate Station,  
Mumbai.20. ....Respondents

(By Advocates Shri V.S.Masurkar (for R.1to3)

Shri M.S.R mamurthy (for R4to6&10)(not present).

This application having been heard on 10.12.2002  
the Tribunal on the same day delivered the following:

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O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicants seven in number who were working as Head Clerks under the Western Railway aggrieved by the adhoc promotion of their juniors by Annexure.A3 order dated 31.12.99 without promoting them and not considering them for regular promotion on par with them, have filed this application seeking the following reliefs:

- (a) to declare that the applicants were entitled to be considered for their selection/promotion to the post of Chief Clerk against the open as well as reserved posts.
- (b) to declare that the selection to the post of the Chief Clerk and promotion orders dated 31.12.1997 and 6.8.1998 is vitiated as the applicants were not considered for the selection in violation of Art.14 and 16 of the Constitution,
- (c) to quash and set aside the promotion order dated 31.12.1997 and 6.8.1998 so far as they relate to filling up the posts of the Chief Clerk.
- (d) to direct the Respondents to hold the fresh selection for the posts of Chief Clerks filled in December, 1997 and August, 1998 by considering the applicants for such selection/promotion, and if found fit, to promote the applicants.
- (e) to pass any other orders which may be considered necessary in the facts and circumstances of the case and to award the costs of the application.

The Railway administration have filed a reply to the Original Application. Although respondents 4 to 6 & 10 were represented by Shri Ramamurthy, no reply statement has been filed on their behalf. The official respondents resist the claim of the applicant. However, the situation has undergone a change during the pendency of this application. In a selection held in

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the year 2000 the applicants also had been allowed to participate. The applicants 1 to 3 being successful in the selection process have since been promoted. The first and second applicants were promoted on 8.1.2000 and the third applicant on 17.8.2001. Applicants 4 to 7 failed in the selection and therefore, the applicants' counsel states that no relief is now claimed for them. Under these circumstances what remains to be considered is only the question of seniority in the promoted post amongst the applicants 1 to 3 and those of the private respondents who might have been regularly promoted.

2. Learned counsel on either side agree that the application may be disposed of permitting the applicants 1 to 3 to make a representation to the second respondent in regard to their seniority vis a vis private respondents if any of those have been regularly promoted and directing the second respondent to consider the representation and dispose of the same within a reasonable time.

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3. In the light of what is stated above, the application is disposed of permitting the applicants 1 to 3 to make a detailed representation to the second respondent regarding their seniority vis-a-vis seniority of private respondents, if any if they have been regularly promoted within one month and directing the second respondent to consider the representation and dispose of the same with a speaking order within three months from the date of receipt of the representation. No costs.

Dated this the 10th day of December, 2002

*Shanta*  
(SHANTA SHAstry)  
ADMINISTRATIVE MEMBER

*A.V. Haridasan*  
(A.V. HARIDASAN)  
VICE CHAIRMAN

(s)