

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 691/98

Date of Decision: 16/4/99

Maniram Singh J

Applicant.

Shri M.S.RAMAMURTHY

Advocate for
Applicant.

Versus

Union of India & Anr.

Respondent(s)

Shri V.S.MASURKAR

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri.Justice R.G.Vaidyanatha, Vice Chairman.

Hon'ble Shri.D.S.BAWEja, Member(A).

- (1) To be referred to the Reporter or not? *N*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *NV*

abp.


(R.G.VAIDYANATHA)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GULESTAN BLDG.NO.6, 4TH FLR, PRESCOT RD, FORT,
MUMBAI - 400 001.

ORIGINAL APPLICATION NO:691/98.

DATED THE 16TH DAY OF APRIL, 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

Hon'ble Shri D.S.Baweja, Member(A).

Maniram Singh J.,
employed as Khalasi/Helper
in Train Lighting Section
(TL) under Senior Section
Engineer, (SSE) (TL),
Western Railway, Lower Parel,
Mumbai - 400 013.

... Applicant.

By Advocate Shri M.S.Ramamurthy.

v/s.

1. Union of India,
through the General Manager,
Western Railway, Churchgate,
Mumbai - 400 020.
2. Chief Workshop Manager,
(Electrical), Western Railway,
Lower Parel,
Mumbai - 400 013.

... Respondents.

By Advocate Shri V.S.Masurkar

ORDER

Per Shri R.G.Vaidyanatha, Vice Chairman

This is an application filed by the applicant praying for a direction to respondents to consider the case of the applicant for change of trade and then for other consequential reliefs. The respondents have filed reply opposing the application. The point involved is a short point, hence we are disposing of the application at the admission stage. We have heard the learned counsels appearing on both sides.

The applicant who is working in Train Lighting(TL) section in the office of Senior Section Engineer, Western Railway has approached this Tribunal that his request for change of trade has not been considered by Respondents though he gave an application as back as 30/4/91. He



therefore wants that his request for change of trade should be considered from 30/4/91, and that the applicant be called for trade test for promotion as Fitter with other consequential benefits.

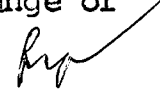
2. Respondents in the reply have denied having received applicant's representation dated 30/4/91 for change of trade. They have also alleged that the application is barred by delay and laches. They have also taken a plea that the application is bad for not joining necessary parties since granting of prayer of the applicant will disturb the seniority position of many others.

At the time of arguments, the learned counsel for applicants made a submission that even now the applicant's prayer for change has not been considered by respondents. Therefore he prays that the applicant's case for change may be considered from 1991 or atleast from 1992 when the Union took up his case or again from March, 98 when he renewed his request, but no decision is taken by administration for change of trade.

3. The learned counsel for respondents submitted that the rights of the applicant will be considered as per prayer and applicant will not be entitled to any retrospective seniority for change of trade as it cannot be given from a retrospective date. There is no difficulty to grant prayer of the applicant for future consideration of applicant for change of trade.

If the applicant now makes a representation for change of trade, the department will consider the same as per rules subject to suitability and availability of vacancies, the administration will have to grant, therefore for granting of relief with future effect, there cannot be any doubt.

4. Again the applicant cannot be given change of trade with regard to his application dated 30/4/91 and get the retrospective seniority. There is serious dispute whether the applicant gave a representation in 1991 for change of



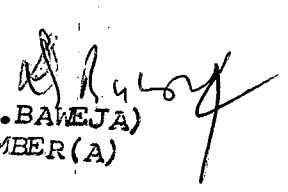
trade. Even granting he has given such a representation, he has approached this Tribunal after 8 years in 1998., praying that applicant's request for change of trade should be considered and granted w.e.f. 1991.; then it will upset the seniority position of many others.

5. Therefore, in the facts and circumstances of the case, we cannot give any direction for change of trade from 1991.

The learned counsel for applicant brought to our notice that in 1997, Union took the case with the respondents, and applicant gave renewed application dated 26/3/98 but the present applicant is filed in this Tribunal on 30/7/98.; prior to filing of this OA some people were given change of trade., and now if any change is made then it may upset the seniority position of others who are not parties before this Tribunal.

6. After hearing both sides and after going through the facts and circumstances of the case and perusing the material on record, we find that the application for change of trade can be considered from the date of filing of the present OA, namely 30/7/98. The OA itself ^{be} ~~is~~ treated as prayer of the applicant for change of trade. However, for legal formality, we give liberty to applicant to make a fresh representation to respondents to consider his case for change of trade from Train Lighting section in the electrical wing of workshop at Parel within a period of four weeks from today. If such a representation is made, respondents should consider the same subject to suitability and availability of vacancy and if they decide to grant prayer for change of trade, then it must be granted with effect from 30/7/98 and with seniority from that date.

7. In the result, the application is disposed of at admission stage subject to directions mentioned in para-6. There will be no orders as to costs.


(D.S. BAWEJA)
MEMBER (A)
abp.


(R.G. VAIDYANATHA)
VICE CHAIRMAN

C.P. No. 13/2000
from for order
on 10.3.2000
(urgent circulation)

2
ms/r

OA 691/98 (15) Dated: 10.3.2000
Heard Shri M.S.
Ramamurthy counsel for the
applicant.

Issue notice to the
respondents on C.P. 13/2000. List
the case for orders on 24.4.2000.

(S.L. Jain)
Member (J)
NS

(D.S. Baweja)
Member (A)

Notices issued to

AI

respondents of

30/3/2000

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OA 691/98 (15) Dated: 24.4.2000

Shri M.S. Ramamurthy
counsel for the applicant. Shri
V.S. Masurkar counsel for the
respondents.

Shri Masurkar states that
he is filing reply today and has
handed over copy of the reply to
Shri Ramamurthy. Adjourned to
12.6.2000.

(S.L. Jain)
Member (J)

(B.N. Bahadur)
Member (A)

NS

Recd. Reply to C.P. No. 13/2000
from Respondents
on 24/4/2000.

26/4

OA.NO.691/98 12.6.2000

Both counsel present.

The counsel for applicant submits
that due to wrong name of the
applicant being shown on the
Board, he is not aware of the
case today. Registry may take
necessary action to correct the
name of the applicant as Maniram
Singh (J). The applicant is
allowed 3 weeks time to file
rejoinder reply if any.

List for orders on 7.7.2000.

(S.L. JAIN)
M (J)

(D.S. BAWEJA)
M (A)

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.**

C.P. No.13/2000 in
ORIGINAL APPLICATION NO:691/98

TRIBUNAL'S ORDER

DATED:7.7.2000

Shri M.S. Ramamurthy counsel for the applicant. Shri V.S. Masurkar counsel for the respondents.

2. C.P. 13/2000 has been filed by the original applicant in OA 691/98. We have gone through the reply to the C.P. filed by the original respondents.

3. The respondents state that the request for change of trade from Train Lighting group to general group has been considered by the competent authority from the date of present OA namely with effect from 30.7.1998. We note that the direction given in the order of the Tribunal in the OA on 16.4.1999 was by way of a direction that the respondents should consider the applicant's case for change of trade from Train Lighting section and if they decide to grant the prayer for change of trade then it must be granted with effect from 30.7.1998 with seniority from that date.

4. In view of the reply to CP at para 5 it is noted that the order has been implemented.

5. Shri Ramamurthy counsel for the applicant, who is present, did make a point that his presumption is that seniority has been given with effect from 30.7.1998 and states that applicant should be given liberty to approach the administration for clarification regarding promotion. The issue of promotion is not before us and nor it is a point in the C.P. Needless to say, it is always open for the applicant to approach their employer to seek clarification on further development as per rules.

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MUMBAI BENCH, MUMBAI.

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:2:

6. We therefore note that the order of the Tribunal has been implemented, though belatedly. There is no intentional disobedience. The C.P. is hereby rejected. Notices issued is discharged.

S.L.J.
(S.L.JAIN)
Member(J)

B.N. Bahadur
07/07/2000
(B.N. BAHADUR)
Member(A)

NS

dt 7/7/00
Order/Judgement despatched
to Applicant/Respondent(s)
on *18/2/00*

19/7/00