

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO: 953/98

DATE OF DECISION: 15.9.1999

Bhri Francis S.Christoher Applicant.

Shri G.S.Walia. Advocate for  
Applicant.

Versus

Union of India and others-----Respondents.

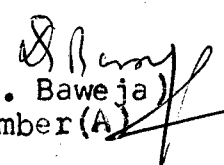
Shri V.S.Masurker. Advocate for  
Respondent(s)

CORAM

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

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

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

  
(D.S. Baweja)  
Member(A)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO:953.98

TUESDAY the 15th day of SEPTEMBER 1999.

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

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

Francis S.Christoher  
Residing at  
Room No.C/3/5  
Municipal Colony  
Opp. M.G.Road,  
Goregaon(W)  
Bombay.

...Applicant

By Advocate Shri G.S.Walia.

V/s

1. Union of India through  
General Manager  
Western Railway  
Head Quarter Office  
Churchgate,  
Mumbai.
2. Chief Mechanical Engineer,  
Western Railway  
Head Quarter Office  
Churchgate,  
Mumbai.
3. Smt. Rita Sharma  
at Present Working as  
Senior Clerk  
Mechanical Dept.  
Western Railway  
Head Quarter Office  
Churchgate, Mumbai.
4. Smt. S.G.Hiranandani  
at present working as  
Senior Clerk  
Mechanical Dept.  
Western Railway,  
Head Quarter office  
Churchgate, Mumbai.
5. Ms. A.L. Hatkar  
at present working as  
Head Clerk  
Mechanical Dept.  
Western Railway,  
Head Quarter Office  
Churchgate, Mumbai.

...Respondents.

By Advocate Shri V.S.Masurkar respondent No. 1 and 2.

...2...

ORDER(ORAL)


{Per Shri D.S.Baweja, Member(A)}

This application has been filed being aggrieved by the impugned order dated 30.7.1998 as per which the respondents No.3, 4, and 5 have been given proforma fixation as Senior Clerk with a prayer <sup>to declare</sup> that the applicant is senior to respondent No.3, 4, and 5.

2. The respondents have filed written statement opposing the application. The respondents submit that the applicant had been confirmed as Senior Clerk from 21.4.1982 as per order dated 23.6.1986, but this order was erroneous as the applicant was ~~applicant was~~ regularised as Senior Clerk <sup>only</sup> from 6.1.1984. The respondents submit that the judgement of the Hon'ble Supreme Court in the case of Anuradha Mukherjee and Others V/s. Union of India and others 1996 SCC (L&S) 1187 is to be implemented and it is not denied by them that the seniority assigned to the applicant is under review to implement the orders of the Railway Board issued for implementation of the judgement in the case of Anuradha Mukherjee.

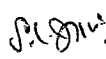
3. Subsequent to the written statement the respondents have filed M.P. 361/97 wherein a copy of Railway Board's order dated 19.3.1999 has been brought <sup>on record</sup> ~~out~~. Referring to this letter, the respondents have contended that the applicant is not entitled for any relief and the OA deserves to be dismissed.


4. On going through the order dated 19.3.1999, we note that in pursuance of the judgement of the Hon'ble Supreme Court in the case of Anuradha Mukherjee and others V/s Union of India and others, Railway Board issued circular dated 7.10.1997. Subsequently. Railway Board on queries raised by the Zonal Railways have given clarifications as per letter dated 5.6.1998.



Against these orders of the Railway Board, a Contempt Petition (C.P.) had been filed before the Hon'ble Supreme Court. That C.P. has been disposed of by the Hon'ble Supreme Court by order dated 24.2.1999 wherein their Lordships have clarified the judgement dated 12.3.1996 stating that proforma promotion would count only for the purpose of computation of pension and the concerned employees will neither get seniority nor any monetary benefit on that score. In view of this clarification by the Hon'ble Supreme Court, Railway Board as per letter dated 19.3.1999 has withdrawn its order dated 5.6.1998. From the averments made by the respondents in the written statement as well as in M.P. 361/99, it appears that impugned order dated 30.7.1998 had been issued to implement the directions contained in Railway Board's circulars dated 7.10.1997 and 5.6.1998. Since the circular dated 7.10.1997 and subsequent letter dated 5.6.1998 have been withdrawn by the Railway Board, we are of the considered opinion that the cause of action no longer survives as the respondents would be required to modify the order dated 30.7.1998.

5. In view of the above observations, the OA is disposed of with the direction to the respondents to review the order dated 30.7.1998 in compliance with the direction contained in the Railway Board's order dated 19.3.1999. All contentions of the applicant on merits in the OA are left open. In case the applicant is aggrieved by any action of the respondents with regard to his seniority, he is at liberty to agitate the matter as per law. No order as to costs.

  
(S.L. JAIN)  
MEMBER(J)

  
(D.S. BAWEJA)  
MEMBER(A)