CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAIA BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 983 & 984/ 1998

MONDAY, THE 02ND DAY OF DECEMBER, 2002

CORAM:
HON'BLE SMT. LAKSHMI SWAMINATHAN. VICE CHAIRMAN (J)
HON'BLE SMT. SHANTA SHASTRY. MEMBER (A)

O.A. NO.983/1998

Shri Raavindra Raghunath Hirwale,
Letters Printer, under Traction
Foreman - Sub-Station (Constructions)
Central Railway, Kalyan. ... Applicant

By Advocate Shri K.B. Talreja.

O.A. NO.984/1998

Shri R. Krishnan Kutty Nair,
Aged 35 year Welder under
TFSS (C)/Kurla. ... Applicant

By Advocate Shri K.B. Talreja.

Copy of Set of OA 984/99 'A'

Versus

1. The Union of India,
through the General Manger,
Central Railway, Mumbai CSTM,
Mumbai.

2. The Divisional Railway Manager,
Central Railway, Mumbai CSTM,
Mumbai.

3. Dy. Chief Electrical Engineer,
(TD/C), Central Railway,
Mumbai CSTM-Mumbai. .. Respondents

By Advocate Shri V.S. Masurkar.

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)

Learned counsel for applicants in the aforesaid two OAs submits that the relevant facts and issues raised in the two OAs (OA 983/1998 and OA 984/1998) are the same. Shri V.S. Masurkar, learned counsel for the

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respondents has agreed to this submission and has therefore, submitted that the two OAs may be taken up together for hearing. This has been done.

2. In view of the above facts and submissions of the learned counsel for parties, the aforesaid two OAs are being disposed by a common order.

3. For the sake of convenience, the facts in OA 983/1998 are being referred to. The main contention of Shri K.B. Talreja, learned counsel for the applicant is that even though the applicant has been working as Letter Printer (L/P with effect from 05.8.1990 in the grade of Rs.3050-4590 (RP) which is a group "C" post in the construction organisation, there was no reason why the respondents should have issued the annexure A1 letter dated 05.02.1998, showing the applicant as having been promoted to skilled category grade Rs.950-1500 (RPS) only with effect from 30.4.1997 . He has very vehemently contended that the applicant should have been regularised and promoted to skilled category of L/P from a much earlier date as according to him the applicant has already been screened/ trade tested as far back as 05.9.1980 for this post. In the case of the applicant in OA No.984/98, he has submitted that he has been working as Rider with effect from 19.6.1983 after trade test and should have also been regularised in that post in the pay scale of Rs.3050-4590 much earlier to 30.4.1997 which is the date given in the annexure A1 letter.

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4. We have seen the reply filed by respondents. The respondents have denied that the applicants have been screened or trade tested earlier. According to them, they have refused the earlier requests for screening and have only been trade tested in the year 1997 and, therefore, the aforesaid order dated 05.02.1998 has been issued. Shri V.S. Masurkar, learned counsel has submitted that in the circumstances, the applicants cannot get any seniority prior to their fulfilment of the conditions laid down in the recruitment rules and in any case, they can only be regularised initially in a Group "D" post and not in a Group "C" post, even though they might have been, earlier promoted in the Construction Wing. He has contended that regular promotion can take place only in the Open Line Division and not in the Construction Wing, where the applicants in the above two OAs are working.

5. During the hearing, we have heard the learned counsel for the applicant at some length. He has rightly submitted that what the applicants want is the integrated seniority list giving the correct position of the applicants, which is also referred to in the aforesaid order dated 05.02.1998. He has also submitted that two juniors to the applicant in OA No.983/1998 have been promoted prior to the date of promotion of the applicant. We have seen the reply filed by the respondents, in particular paragraph 21, in which it has

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been stated, interalia, that the two employees cited by the applicants, who are junior to the applicant in OA 983/1998 have superseded the applicant as they were absorbed against 25% of Decasualisation. We also note that the respondents have submitted that according to records, applicants were called for screening for regularisation as Khalasi in the year 1988 and 1990 but they refused to appear for screening vide letter dated 15.3.1991 of Traction Foreman, Sub Station, Construction Wing. According to the respondents, the applicants have been regularised after they appeared for screening in 1997 by the aforesaid order dated 05.02.1998. It is relevant to note that in paragraph 4 of the OA, the applicant has confirmed the position stated by the respondents that he had declined to accept the screening which was to be held in 1988 in his representation dated 12.5.1988.

6. We note from the aforesaid submissions of the parties that essentially it is a question of fact whether the applicants had been called for screening held in 1988 or 1991 which they have refused. The respondents have also not annexed the specific letters referred to by them in the reply, whereby the applicants have refused to be screened prior to 1997. In the circumstances, we consider it appropriate to direct the respondents to reverify the records to ensure that the applicants had declined to appear in the screening/ trade tests which were held in 1991 or earlier.

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7. Apart from that, although we do agree with the contention of the learned counsel for respondents to some extent that the averments and prayers made in the OAs are somewhat vague, however, noting the specific prayer made by Shri K.B. Talreja, learned counsel during the hearing that all that the applicants in the two OAs want is the integrated seniority list, which has been referred to in the order dated 05.02.1998, we dispose of these two OAs with the following directions:-

Respondents, in particular Respondent No.2 i.e. the Divisional Railway Manager, Mumbai shall arrange to send the integrated seniority list referred to in the last paragraph of the letter dated 05.02.1998 to the applicant(s) within one month from the date of receipt of a copy of this order.

No order as to costs.

8. Let a copy of this order be placed in OA No. 984/1998.

(SMT. SHANTA SHASTRY)
MEMBER (A)

(SMT. LAKSHMI SWAMINATHAN)
VICE CHAIRMAN (J)