

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1029 OF 2017
IN
WRIT PETITION (ST) NO. 27773 OF 2016

1. MADAN MOHAN KASHYAP

Presently, working as Passengers
Guard (Main Line), Mumbai Division,
C. Railway, CSTM, Mumbai-400 001.

2. Koola Jose Sebastin,

Presently working as Passenger
Guard (Suburban), Mumbai Division,
C. Railway, CSTM, Mumbai-400 001.

3. Hari Om Gupta,

Presently working as Passenger,
Guard (suburban), Mumbai Division,
C. Railway, CSTM, Mumbai-400 001.

4. Rustum Panda

Presently working as Passenger,
Guard (Suburban), Mumbai Division,
C. Railway, CSTM, Mumbai-400 001.

.....APPLICANTS

IN THE MATTER OF :

1. Chorelal Meena,

B-208, Jankidham, Shivaji Nagar,
Waldhuni, Kalyan Dist. Thane

2. Narsappa Gunjalappa,

RB-II, 52/3, Railway Quarters,
Behind Sion Hospital, Mumbai

3. Suhdeo Rashpal Singh,
RB-II 9/10, Railway Colony,
GTB Nagar, Sion Koliwada,
Mumbai-400 037.

4. Kanheyalal Tarachand Tharwani,
RB-III, 1/9. Central Railway Colony,
Byculla Mazgaon, Mumbai-400 008.

5. Sunil Nanikram Aswani,
Mata Sagar Apartment, Sector-20
Ulhasnagar, Dist. Thane, 421 003.

6. Virendra G.D.M. Sharma,
Passenger Guard (Suburban),
Mumbai Division,
Central Railway, CSTM,
Mumbai-400 001.

7. Jaswant Sonelal Singh,
Quarter G-120
Railway Colony, Murbad Road,
Kalyan (W), Dist. Thane-421301.

8. Anwar Ahmed,
RB-III, A-14, 3rd Floor,
Berkely Place,
Sir J.J. Road, Byculla,
Mazgaon, Mumbai-400 008

9. Prem Kumar Shukla,
Shivesh Apartment,
Chinchpada Road, Katamanivali
Kalyan (East), Dist. Thane- 421306

10. Umesh Shripad Kabul
A/504, Pratik Apartment,
Ramchandra Nagar No.3

Vaity Wadi, Thane (W)-400 004.

11. Vivek Rajan Sahai,
201, Kalpataru Apartment,
Pathakwadi, Murbad Road,
Kalyan (W), Dist. Thane 421301

12. Anand Bhargav,
Zinnia C.H.S. A-7/12,
Godrej Hill, Khadkpada,
Kalyan (W), Dist. Thane.

13. Umesh Pratap Balram Singh,
A-103, Ambika Complex,
Meditiya Nagar, P.K. Road,
Bhayander (E), Dist. Thane 401105

14. Pradeep Kumar Chaturvedi,
B/26, Berkely Place,
Sir J.J. Road, Byculla,
Mazgaon, Mumbai-400 008.

15. Suresh Varma A.K.
A-102, Sadanand Villa,
Shivaji Udyog Nagar,
Patharli Road, Dombivali (E),
Dist. Thane-421201.

16. D.K. Kapil,
B-9, Berkely Place,
Sir J.J. Road, Byculla,
Mazgaon, Mumbai-400 008.

17. D.K. Dharmasi
Passenger Guard (Suburban)
Mumbai Division
Central Railway, CSTM,
Mumbai-400 001
CSTM, Central Railway, Mumbai

....NON-CAVEATORS

VERSUS

1. Union of India,
Through General Manager,
Central Railway, CSTM,
HQ Office, Mumbai-400 001.

2. Divisional Railway Manager,
Central Railway, Mumbai Division,
CSTM, Mumbai-400 001.

3. Senior Divisional Personnel Officer,
Central Railway Mumbai Division,
CSTM, Mumbai-400 001 Respondent

Mr. Dhananjay B. Deshmukh, Advocate for the applicant.

Mr. Suresh Kumar, Advocate for respondent no.1, UOI.

CORAM :- SMT. V.K. TAHILRAMANI, &

SANDEEP K. SHINDE, JJ.

RESD. ON :- 27TH JULY, 2017.

PRON. ON :- 3rd AUGUST, 2017.

JUDGMENT (PER :- SANDEEP K. SHINDE, J)

1. Applicants are seeking impleadment as respondents in the subject petition.

2. The petitioners herein have challenged the

order dated 17th August, 2016 passed in O.A. No.813 of 2011, 417 of 2012 and 112 of 2013. The petitioners who are senior most Suburban Passenger Guards, have never worked as Passenger Guards (Mainline) but refused the promotion twice on various personal grounds. The petitioner's refusal for promotion was not accepted by the railways and as such the order of the Railways was challenged before the Central Administrative Tribunal (CAT) in O.A. No.813 of 2011, 417 of 2012 and 112 of 2013. All these O.As were dismissed and certain directions were issued. Applicants are juniors to the petitioners. They apprehend that, in the event, this Court either at interim stage or otherwise, if injuncts railways to transfer and/or promote the petitioners to Passenger Guard (Mainline) or Guard (Main Express), it would vitally affect the applicants interest, in as much as, they being juniors in the seniority, would be transferred from Passenger Guard, Suburban to Passenger Guard (Mainline).

3. Heard Learned Counsel for the applicants and Learned Counsel for the original petitioners.

4. In our view, applicants are neither, proper nor necessary parties because even in their absence, Court can effectually and completely adjudicate upon and settle all the questions involved in the subject petition. Applicants are worried about order likely to be passed in the petition which may affect their rights. We do not accept this submission. Even assuming, petitioner's contention and/or "right to refuse", promotion is accepted by the Court, consequential order of transfer/promotion of applicants will give rise to independent cause of action.

. Besides, it appears, one of the applicants herein who has been transferred from the post of Passenger Guard (Suburban) to Passenger Guard (Mainline) vide transfer order dated 165 of 2015 has filed O.A. 165 of 2015 in the Central Administrative Tribunal and the implementation of the transfer order has been stayed. That, in the circumstances, one of the applicants has taken

appropriate step to protect his interest. That for the reasons aforesaid, the Civil Application deserves no consideration and it is rejected. Accordingly, the Civil Application is disposed off.

(SANDEEP K. SHINDE, J)

(SMT. V.K. TAHILRAMANI, J)