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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1803 OF 2021

Union of India & Ors.

.. Petitioners

Vs.

Ranjeet Kumar Chaturvedi s/o

Late Lami Narain Chaturvedi & Ors. .. Respondents

Ms. Smita Thakur for petitioners.

Mr. Rahul Walia for respondents.

**CORAM: DIPANKAR DATTA, CJ. &
MADHAV J. JAMDAR, J.**

DATE : NOVEMBER 9, 2022

P.C.:

1. The petitioners [(i) Union of India, through Secretary, Railway Board, (ii) The General Manager, Headquarters Office, Central Railway, C.S.T., Mumbai and (iii) The Station Master, Central Railway, Headquarters Office, C.S.T., Mumbai] call in question an order dated 16th September, 2020 passed by the Central Administrative Tribunal, Mumbai Bench, Mumbai allowing Original Application No. 485 of 2013 instituted by the 17 (seventeen) respondents herein.

2. The short question that engaged consideration of the Tribunal was whether the respondents' dates of joining in service ought to be reckoned as 29th December, 2005, i.e., the date on which they took oath of office or 2nd January,

2006, i.e., the date when they reported for training at the Bhusawal Training Centre. Upon consideration of the documents forming part of the original application as well as the arguments advanced on behalf of the parties, the Tribunal, while allowing the original application, made the following direction: -

"The respondents are directed to treat 29.12.2005 as the date of appointment of the applicants for fixation of pay. However, no costs."

3. We have heard Ms. Thakur, learned advocate for the petitioners and Mr. Walia, learned advocate for the respondents.

4. It is not in dispute that the respondents, upon their selection, were required to undergo, *inter alia*, physical fitness test (medical examination) in terms of the appointment letter issued sometime in November, 2005. It is further not in dispute that all the respondents were successful in the medical examination, pursuant to which they were administered oath of allegiance on 29th December, 2005. The oath of allegiance, traceable at paragraph 221 of the Indian Railway Establishment Code (Vol-II), reads as follows: -

"221. Oath of allegiance. – All new entrants to service must take oath before the head of department/office or a gazette railway servant nominated by him. Conscientious objector of oath taking may make solemn affirmation. The oath taking or affirmation shall be in the following form.

'..... do swear/solemnly affirm that I will be faithful and bear true allegiance to India and to the Constitution of India as by

law established and that I will carry out the duties of my office loyally, honestly and with impartially, so help me God'."

(bold in original)

5. We are of the considered view that one could not have been administered oath, unless he reported for duty. This is one factor which weighs in favour of the respondents and against the petitioners to hold that the respondents had indeed reported to the Head of Department/Office for being administered oath on 29th December, 2005.

6. Secondly, we find from page 117 of the petition memo a letter issued by the Divisional Railway Manager (P), Mumbai CST, Mumbai addressed to the Principal, Regional Training Centre, Central Railway, Bhusawal, on the subject of training for the post of Apprentice Goods Guard in the pay-scale of Rs.4500-7000 (RSRP) during the proposed curriculum period from 2nd January, 2006 to 24th February, 2006. This letter, when read in conjunction with the appointment letter, makes it quite clear that the appointees were required to qualify in the training at Bhusawal. Merely because the training was to commence from 2nd January, 2006 could not have been considered to be the date on which the respondents had actually reported for duty while joining service. It is axiomatic that the training was required to be undergone in terms of the appointment letter which stipulated that failure to succeed in the training would result in forfeiture of benefits of appointment. It is not disputed by the petitioners that the respondents duly succeeded in the training whereafter they had been continued in service.

7. Over and above all these factors, what clinches the issue in favour of the respondents and against the petitioners is a letter dated 7th May, 2009, which is at page 118 of the petition memo. Such letter, we are informed, was issued to all the respondents. The calendar year of joining is shown as 2005 and not 2006. Having read the said letter, we have no doubt in our mind that the Tribunal was perfectly justified in arriving at a finding that the date of joining should be reckoned as 29th December, 2005 and not 2nd January, 2006.

8. We may, in this connection, also refer to the contents of paragraph 15 of the written statement that was filed before the Tribunal by the petitioners wherein it is admitted that the service record of the respondents was completed on 29th December, 2005 and they were allotted PRAN numbers pertaining to the year 2005.

9. Service books of a couple of the respondents have been placed before us. Ms. Thakur has not been able to show us therefrom that dates of joining of the concerned respondents is indicated as 2nd January, 2006.

10. We have noted from the impugned order of the Tribunal that it has looked into all the relevant aspects and allowed the original application by a reasoned order, which is unexceptionable. No case for interference has been set up; hence, the writ petition stands dismissed. No costs.

11. The benefits flowing from the impugned order of the Tribunal in favour of the respondents shall be released in accordance with law as early as possible but positively

within 60 days from date of receipt of an authenticated copy of this order.

(MADHAV J. JAMDAR, J.)

(CHIEF JUSTICE)

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signed by
SALUNKE J V
SALUNKE J V
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