

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10694 OF 2023

Parvez Shaikh Salim And Ors ... Petitioners.

V/S.

Union Of India Thr Chairman
Railway Board And Anr ... Respondents.

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Mr.Rahul Walia a/w. Ms.Asmita Pendharkar for the Petitioners.
Mr.R.R.Shetty for the Respondents.

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**CORAM : NITIN JAMDAR, AND
MANJUSHA DESHPANDE, JJ.**

DATE : 30 August 2023.

P.C. :

By the Order passed today in Writ Petition No.10693 of 2023, which is connected we have disposed of the Writ Petition observing that since Tribunal has held that the controversy brought before it is at premature stage, the Tribunal should not have looked into the merits of the matter and we have kept the merits of the matter open in the original application filed by the Petitioner therein challenging the subsequent action of the Respondents.

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In the present case the Respondents have not yet taken

any consequential action. There is a debate before us as to whether the Petitioners should be given option to accept promotion or not. According to the Petitioners, there is a longstanding practice of giving such option which is acknowledged by the Respondents. The Respondents contend that there is no option provided under the Rules and if the Petitioners refuse to accept the promotion, consequences will follow.

3 Since the Tribunal has concluded that the matter before it was presented at the premature stage, obviously the observations, made by the Tribunal cannot be considered binding on either of the parties. Therefore, if the Respondents proceed to take any action against the Petitioners, it is upto the Petitioners to approach the Tribunal, which is Court of first instance and if such application is filed, it would be decided on its own merits .

4 Writ Petition is accordingly disposed of.

(MANJUSHA DESHPANDE, J.) (NITIN JAMDAR, J.)