

Union of India and Others

Vs

A Radhakrishnan and Others

Civil Appeal No. 3838 of 1988

(L. M. Sharma, J. S. Verma JJ)

04.09.1991

JUDGMENT

J. S. VERMA, J.

1. This matter brings to the fore once again the ineptitude with which litigation is conducted quite often on behalf of the Government of India and State Governments even when important issues having lasting and wide repercussions are involved. The point in this case relates to the validity of a policy of the railway administration and is likely to affect the staff pattern in several units. In spite of this fact, to support validity of the impugned policy the required materials were not produced in the High Court and to overcome the adverse decision several opportunities given by us to produce the entire relevant record were not availed. The learned Additional Solicitor General informed us after several adjournments that better performance is not possible. We, therefore, concluded the hearing and proceed to decide on the available materials. It is indeed fortunate for the appellants that our conclusion is in their favour. The railway administration with its countrywide network can help to improve this situation by a genuine effort in this direction and thereby contribute also to saving of needless expense and time. We, therefore, direct that a copy of this judgment be sent to the Chairman, Railway Board, Ministry of Railway, Government of India.

2. In view of the situation indicated above, we are mentioning only those facts which are necessary for deciding this matter and which are accepted by both the sides. It is not unlikely that there may be more material in the available records of the appellants to support our conclusion.

3. Briefly stated the controversy in this matter relates only to the employees working in the Inspection Wing of the Production Control Organization (for short 'PCO') of the Integral Coach Factory, Perambur. The grievance of these employees in the Inspection Wing is to the implementation of the circular dated June 8, 1982 of the General Manager's Office (Personnel Branch/Fur), Madras of the Integral Coach Factory issued in supersession of the earlier circulars on the subject with the Railway Board's approval to treat the Progress Wing alone of the PCO as a separate cadre. The grievance of the employees in the Inspection Wing is that there is no reasonable basis for this classification of the Progress Wing of the PCO separately denying the same benefit to those in the Inspection Wing. In short, the employees of the Inspection Wing of the PCO also want to be in a separate cadre like those in the Progress Wing and absorbed permanently in the PCO without the risk of being reverted to the shop floor from which they had been taken and where their lien continues.

4. A brief history of the Production Control Organization in the Integral Coach Factory, Perambur, may now be given. The PCO of the Integral Coach Factory was constituted to ensure quality control

of the production in the factory. It comprises four wings which include the Progress and Inspection Wings. It appears that the policy for manning the different wings of the PCO remained nebulous for quite long and several changes therein were made from time to time to accommodate the staff's point of view. To begin with, persons from different trades in the shop floor were taken on deputation for the different wings of the PCO. For the Progress Wing of the PCO, there was also some direct recruitment, but the same was stopped after some time probably in the year 1958 and it was decided that the posts in the Progress Wing be filled by taking persons on deputation from the shop floor. On April 22, 1963, the Railway Board laid down uniform policy for the PCOs in all units of the Indian Railways according to which all the posts in the PCOs were made ex-cadre and every employee posted in the PCO was to be from a trade in shop floor. The employees transferred from the shop floor to the PCO were to retain their lien in the shop floor and deemed to be on temporary transfer. This gave rise to some practical difficulty and the permanently absorbed staff in the PCO were given option to revert to the shop floor. The staff directly recruited in the PCO were to be allotted a trade and given the option for getting absorbed in the shop floor. On October 13, 1964, a modification was made which is contained in the G.M.(P)'s letter No. PB(S)/M/6/ATC which refers to the Railway Board's letter No. E(NG) 59 SR 6-22 dated April 22, 1963. This was the first stage, as described by the learned Additional Solicitor General, for the employees in the PCO of the Integral Coach Factory, Perambur. At the next stage, this policy was further modified for the Inspection Wing by a circular dated August 13, 1965 of the office of the GM/PB/Shell of the Integral Coach Factory. This was a half-way measure implemented straightway in the Inspection Wings, but could not be implemented in the other three wings, namely, Progress, Planning and Time Study, because of certain practical difficulties therein. According to this modification, the Inspection Wing was to form a separate ex-cadre unit and the employees in the Inspection Wing were given pro forma position in the cadre posts in their trade and could be reverted to their parent cadre in the shop floor in the position which they occupied in the shop floor. This again met with difficulty in implementation giving rise to circular dated September 29, 1967 of the office of the General Manager/Personnel Branch 'Staff' of the Integral Coach Factory. Option was given to the staff in the Progress, Planning and Time Study Wings of the PCO to get absorbed and interpolated in the shop floor leaving the Inspection Wing separate. This circular dated September 29, 1967 was struck down by the Madras High Court vide its order dated August 22, 1975 in a petition filed by employees of the shop floor on the ground that the General Manager of the Integral Coach Factory had no power to act inconsistently with the Railway Board's circular and the remedy is to modify the Railway Board's circular dated April 22, 1963. Accordingly, the procedure laid down in the order dated September 29, 1967 was cancelled and all posts in the PCO were declared ex-cadre by a circular dated March 28, 1977 of the General Manager's Office (Personnel Branch/Fur.) of the Integral Coach Factory. A modification in the earlier proposal was made by this order. All employees were to be allotted a trade and given option either to go to the shop floor or remain permanently in the PCO. However, this too could not be implemented on account of the protest of the staff and the unions representing them. At the next stage, a proposal was made by the Integral Coach Factory to the Railway Board which is contained in the letter dated March 1, 1982 from the Chief Personnel Officer, Integral Coach Factory to the Joint Director, Establishment, Railway Board. This was in pursuance to the suggestion of the staff itself that the Progress Wing alone be treated as separate cadre in the PCO and not the remaining wings. Reasons in support of the proposal were also given therein. The Railway Board converted its approval to this proposal in its letter No. E(NG) 1-81 PM1/259 (CA) dated March 20, 1982. This led to the issuance of the order dated June 8, 1982 by General Manager, Integral Coach Factory, stating that in accordance with the Railway Board's approval, the Progress Wing alone of the PCO would be a separate cadre and not the remaining wings. As a result of this decision, the Inspection Wing is not treated as a separate cadre unlike the

Progress Wing. This is the basis of the grievance of the employees of the Inspection Wing which led to the filing of the writ petition giving rise to this appeal.

5. Writ Petition No. 4468 of 1982 filed in the Madras High Court by the respondents was allowed by the learned Single Judge on April 7, 1984. Thereafter, another steps was taken by the railway administration which may be mentioned. The Integral Coach Factory issued a circular on October 21, 1984 conveying Railway Board's decision contained in the letter dated September 13, 1984 regarding the staffing pattern of the PCOs in the workshops including the Integral Coach Factory. According to this decision, all posts in the PCO except the Progress Wing continued to be ex-cadre posts and the tenure of these posts was directed to be strictly adhered to. The existing position regarding ex-cadring of the posts in the PCO in all wings of Southern Railway and Progress Wing of Integral Coach Factory was allowed to be continued. In short, it was a reversion to the initial stage contained in the order dated April 22, 1963 of the Railway Board except for the Progress Wing. The writ appeal of the railway administration was thereafter dismissed by the High Court on June 22, 1987. The further facts are not material for deciding the point in controversy.

6. In short, the employees of the Inspection Wing which include the respondents, contend that they are entitled to be treated similarly as the employees of the Progress Wing, whose continuance in the PCO without the risk of reversion to the shop floor is assured by the adoption of this policy. This contention of the respondents has been accepted by the High Court. The acceptance of the respondent's claim results in striking down the Railway's policy to this extent of not treating the Inspection Wing also as a separate cadre like the Progress Wing. It also affects the prospects of those in the shop floor who are denied the chance of being taken in the Inspection Wing of the PCO because of the continuance permanently of those already there retaining their lien in the shop floor. It is admitted that the service conditions in the PCO are better than those of the corresponding posts in the shop floor. This is the reason for those in the PCO not wanting to revert to the shop floor and the keenness of persons from the shop floor to go to the PCO. Some employees working in the shop floor have preferred SLP (Civil) No. 9774 of 1990 arising out of a connected matter and have supported the stand of the Railway Administration taken in civil Appeal No. 3838 of 1988.

7. It is common ground before us that the Inspection Wing of the PCO performs the function on inspecting the quality of the products of the Integral Coach Factory and thereby ensures quality control of the products. The Progress, Planning and Time Study Wings of the PCO are involved in the manufacture of these products and come at the stage relating to manufacture of the products. There is thus an intelligible differentia between the function of the Inspection Wing on one side and the remaining wings of the PCO on the other. The background indicated earlier leading to the decision by the Railway Board that the Progress Wing alone would be treated as permanent cadre in the Integral Coach Factory and not the others, was reached on the basis of experience over a long period and was in consonance with the opinion of the Staff Council representing the views of the staff of the Integral Coach Factory. It appears that continuity in Progress Wing and rotation in the Inspection Wing was considered desirable for better efficiency. The Railway Board being competent to effect necessary changes in the staff pattern of the various units under its control for the purpose of streamlining the organisation and improving their efficiency, took this decision for this purpose which is consistent with the view of the Staff Council representing the interest of the entire staff in the PCO. It does appear that the railway administration did want at one time to treat all units in the PCO as separate permanent cadres but practical difficulty in the implementation of that policy and opposition by the staff impelled it to give up the same. Even here we find that while those already in the Inspection Wing want to remain there permanently, the others who are in the shop floor and would be denied the prospect of being taken in the Inspection Wing of the PCO if the respondents'

contention is upheld, are opposed to this view. The decision of the Railway Board, therefore, takes into account all points of view and makes an attempt to reconcile the conflicting interests while ensuring improvement in the efficiency of the unit. If as a matter of policy the Railway Board approved the proposal made by the management of the Integral Coach Factory to treat the Progress Wing alone of the PCO as a separate cadre and not so the remaining wings including the Inspection Wing, the same cannot be faulted unless it is held to be discriminatory or arbitrary. In view of the nature of functions performed by the four different wings of the PCO, we are unable to agree with the High Court's view that the Inspection Wing and the Progress Wing of the PCO must be classified together and treated as separate cadres. It is significant that even at some of the earlier stages, Inspection Wing was treated differently as a matter of policy.

8. The work of the Inspection Wing, as indicated earlier on the basis of undisputed facts before us, is to inspect the quality of the manufactured products to ensure quality control, while the Progress Wing is concerned with the stage prior to manufacture of the products. For the efficiency of the Inspection Wing which performs the duty of exercising vigilance over the production for the sake of ensuring quality of the products, it is not unreasonable to think that a periodic rotation of its personnel would be conducive to efficient functioning of the Inspection Wing. The permanency of personnel in the Inspection Wing can promote lethargy in them and may also tend to create vested interests. The possibility of change therein makes the existing personnel more vigilant to avoid any lapse which could be discovered by the replacement. The highest possible standards of vigilance by them is achieved by the possibility of reversion to the shop floor against their will if the required degree of efficiency and standard in performance of the duty is not maintained. The work of the Inspection Wing being at the end point with no further security thereafter, rotation of its personnel is likely to promote the efficiency of the unit. This factor is sufficient to provide a reasonable basis for classification of the Inspection Wing differently from the Progress Wing and there is no ground to complain to discrimination, if according to the Railway Board's policy, the Inspection Wing is not treated as a separate cadre like the Progress Wing. The power of the railway administration to formulate such a policy provided it is not discriminatory being rightly not challenged, this conclusion alone is sufficient to uphold the action of the railway administration. The contrary view taken by the High Court cannot, therefore, be sustained.

9. We find that the competence of the Railway Board to change the staff pattern of the PCO in the Kharagpur Railway Workshop of South Eastern Railway, was challenged before the Central Administrative Tribunal. The decision there was contained in a Memorandum of 1979 declaring that the posts in the PCO in the Kharagpur Railway Workshop would be treated as 'ex-cadre' differently from the policy in Integral Coach Factory. The Tribunal rejected the challenge based on discrimination between two units and a special leave petition filed in this Court was dismissed. This Court in *S.K. Chakraborty v. Union of India* [(1988) 3 SCC 575 : 1988 SCC (L&S) 865 : (1988) 8 ATC 40 : 1988 Supp 1 SCR 425] upheld the authority of the Railway Board to adopt such a policy to bring about the necessary changes in the staff pattern for improving the efficiency of the administration of units under its control and for the purpose of streamlining the organisation provided there was no discrimination.

10. Consequently, the appeal is allowed and the impugned judgment of the High Court is set aside resulting in the dismissal of the writ petition filed in the High Court. No costs. A copy of this judgment be sent to the Chairman, Railway Board as directed.

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