

Central Administrative Tribunal
Principal Bench

O.A.No.2387/91

Hon'ble Shri T.N.Bhat, Member(J)
Hon'ble Shri R.K.Ahooja, Member(A)

Shri Maqdam, Mate
s/o late Shri Qazir
presently working under
Permanent Way Inspector (Constn.)
Northern Railway
Tughlakabad and
r/o No.M/773/B-37,
Gandhi Colony
Railway Road
Faridabad (Old)
Haryana.

... Applicant

(By Shri Anis Suhrabardy, Advocate)

Vs.

Union of India : through

1. The General Manager
Northern Railway
Baroda House
New Delhi.
2. The Chief Administrative Officer
Construction Department
Northern Railway
Kashmere Gate
Delhi - 110 006.
3. The Deputy Chief Engineer
Construction Department
Northern Railway
State Entry Road
New Delhi; and
4. The Sr. Civil Engineer (Construction)
Northern Railway
State Entry Road
New Delhi.

... Respondents

(By Shri O.P.Kshatriya, Advocate)

ORDER (Oral)

Dated: 14-10-1996.

Shri T.N.Bhat, Hon'ble Member(J)

The applicant in this Original Application, joined the Central Railways initially in the year 1971 as a Mate in the Civil Engineering Department. After the applicant had worked for sometime, his services were disengaged in the year 1985. He approached the Apex Court with a Writ Petition which was, however, dismissed by the order dated 29.10.1985. While dismissing the Writ Petition, it was observed by the

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Hon'ble Supreme Court that if there was any job suitable for the applicant for which he would be found fit the same may be offered to him. No such job was, however, offered to him. On the contrary, the respondents insisted on the applicant's medical examination, etc.

2. The applicant once again approached the Hon'ble Supreme Court with Writ Petition (Civil) No.885/88 which was disposed of by the Order/Judgment dated 13.3.1989 with the following directions:

"Heard learned counsel for both parties. It appears that the Petitioner passed the B-1 Medical test which applied to him and, accordingly, he should be re-instated to the post of Mate. In the circumstances, we direct the respondents to reinstate the petitioner to the post of Mate without back wages but with continuity of service."

3. Subsequently, the applicant filed a Civil Contempt Petition before the Hon'ble Supreme Court which was also disposed of by the order dated 7.8.1989 in the following terms:

"We are told by Mr. Mahajan that the Petitioner has since been re-instated, it is, however, the complaint of the petitioner that his re-instatement has been made subject to his being medically examined periodically. We direct that the petitioner would not be subjected to any further medical test except under the rules and after the petitioner attains the age of 45 years. In the circumstances no further order need be made on the application for contempt."

4. The applicant has now come to the Tribunal aggrieved by the fact that the respondents have withheld seniority from the date of his initial appointment, and two increments have also been withheld and wages for the period between 25.9.1984 and 13.3.1989 have been denied.

5. So far as granting the benefit of seniority and two increments are concerned, the same has admittedly been given to the applicant during the pendency of the Original Application. Learned counsel for the applicant, however, vehemently urges before us that the applicant is entitled to the wages for the aforesaid period between the year 1984 and 1989. But it is not the case of the applicant that for the aforesaid period he had actually worked. On the contrary, his grievance appears to be that he was disengaged arbitrarily and despite the direction of the Hon'ble Supreme Court, he was not offered a suitable job for which he could be found fit. The applicant can certainly not claim wages for a period for which he has not worked with the respondents. ~~Respondents~~. We also do not find any merit in the contention of the learned counsel for the applicant that even if the Hon'ble Supreme Court refused his prayer for back wages as a Mate, the applicant would be entitled to back wages as a Casual Mate, particularly, so when he did not work as a Casual Mate during the said period, nor was he offered such a job. We also do not find any specific direction given by the Hon'ble Supreme Court in the Judgment/Order dated 29.10.1985 that the applicant should be engaged as a Casual Mate. A specific direction for engaging the applicant as Mate was given only on 13.3.1989.

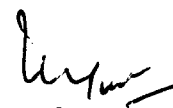
6. As regards the wages from 13.3.1989 to 31.3.1989, the learned counsel for the respondents states that it was only on 31.3.1989 that the applicant approached the respondents and joined duty in pursuance of the directions of the Hon'ble Supreme Court and wages from that date have already been paid to him. In the circumstances, the applicant's claim for wages from 14.3.1989 to 31.3.1989 can also not be accepted.

7. In view of what has been held and discussed above, we are of the considered view that the applicant has been granted the reliefs that were admissible to him and that the relief claimed in sub-para (i) of Para 8 cannot be granted in these proceedings. We, accordingly, dismiss^u the OA as having become infructuous and also on the ground that the applicant's claim for wages for the period between 1984 to 31.3.1989 is devoid of merit.

8. There shall be no order as to costs.


(R.K. AHOOJA)
MEMBER(A)

/rao/


14.10.1996.
(T.N. BHAT)
MEMBER(J)