

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 468 of 1995

Allahabad this the 04th day of June 1997

Hon'ble Dr. R.K. Saxena, Member (J)
Hon'ble Mr. D.S. Baweja, Member (A)

Shri Ashok Kumar Verma, S/o Shri R.C. Verma,
Ex-Mobile Booking Clerk, Northern Railway, Kanpur.
R/o 42-B, Fazalganj Rly. Colony, Kanpur (U.P.)

Applicant

By Advocate Sri V.K. Srivastava

Versus

Union of India: Through:

1. The Secretary, Railway Board (Ministry of Railways)
Rail Bhawan, New Delhi.
2. The General Manager, Northern Railway, Baroda House,
New Delhi.
3. The Divisional Railway Manager, Northern Railway,
Allahabad.

Respondents

By Advocate Sri A.K. Gaur.

O R D E R (Oral)

By Hon'ble Dr. R.K. Saxena, Judicial Member

The applicant - Ashok Kumar Verma has approached the Tribunal seeking the relief that the respondents be directed to re-instate the applicant with all consequential benefits and further direction be given to the respondents to examine the applicant for category 'C' and utilise his services in the category for which he may be found suitable.

2. The facts giving rise to this O.A. are that this applicant was engaged as Mobile Booking Clerk in pursuance of the scheme which was introduced by the Railway Board in the year 1973. The applicant is stated to have worked for 90 days ^{each} in the years 1983, '84, '85 and 228 days in the year 1986 and 90 days in the year 1987. It appears that the services of the applicant ~~were~~[^], however, terminated on 17.11.86. He, therefore approached the Principal Bench of Tribunal by filing the O.A. no. 1011/87 Shivaji Mishra and Ors. Vs. Union of India and Others. Several other petitions were filed and all of them were disposed of by one common judgment on 23.5.1989. The order of termination was quashed and the applicants of the said O.A. along with present applicant were directed to be re-instated. Accordingly, the applicant was, no doubt, reinstated but he was sent for medical-examination for category C-1 in which he failed. Consequently his services were again termination^{ed} on 10.1.1991. Feeling aggrieved by the said subsequent order of termination, this O.A. has been preferred on the ground that the applicant should have been directed to undergo the medical test of other category such as C-2^I, and if he was found suitable, he should have been observed. The applicant had represented for his medical examination for other category being ~~3~~one. The representation was made on 14.1.1991 but

it was rejected vide order dated 06.1.1994 annexure A-1. The O.A. is, therefore, filed to seek re-instatement of the applicant and a direction for his medical examination in category C-2.

3. The respondents have opposed the contention of the applicant on the ground that the applicant has got no legal right and O.A. was highly time-barred.

4. The applicant filed rejoinder, reiterating the facts as mentioned in the O.A.

5. We have heard Sri V.K. Srivastava, learned counsel for the applicant and Sri A.K. Gaur, learned counsel for the respondent at the stage of admission. We have also perused the record.

6. The main question for the consideration in the case is whether the applicant has got any legal right to seek re-instatement or a direction for medical-examination for a category other than C-1. It is admitted fact that this applicant was taken back in service after the O.A. no. 1011/87 was decided and the earlier order of termination was quashed. Since he had been working as a casual worker, it was necessary to have undergone the

medical test and, therefore, the applicant was asked to undergo the medical examination. The medical examination of the category C-1 was gone through and the applicant failed. Accordingly his services were terminated but no order of termination has been brought on record. It has been ^{corrected} ~~asked~~ by Sri V.K. Srivastava that the services were terminated on 10.1.1991. He has not impugned this order of termination, what has been impugned is the rejection of representation which was made on 14.1.1991. What we find is that the applicant should have filed ⁸ the copy of the order of termination and should have challenged ⁸ the same. Assuming that the services of the applicant were terminated because he failed in the medical test for the category C-1, the said order of termination cannot successfully be challenged because the respondents were under legal obligation not to allow the applicant continue in service. The learned counsel for the applicant drew our attention towards the fact that because the applicant had worked for sometime under the respondents, it was their duty according to their own letters annexures A-11 to A-14, to have made an attempt to give alternative job by ^{leaving it} ~~saying that~~ the applicant qualified in other category of service. We have gone through this letters which are not ^{simply} mandatory in nature. They are recommendatory and on the basis of ⁸ ~~these~~ letters, the applicant

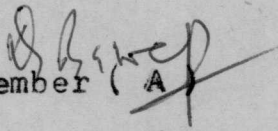
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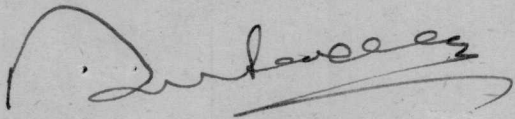
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does not acquire any right.

7. It is also contended on behalf of the respondents that the O.A. is highly time-barred. It is clear that the O.A. was filed in the year 1994 whereas the services were terminated on 10.1.1991. The contention of the applicant^{is} that the representation was made on 14.1.1991, there was no^g ground for him to have waited for 3 years for the reply. In our opinion the O.A. is really time-barred.

8. On the consideration of these facts, the O.A. stands dismissed. No order as to costs.


Member (A)


Member (J)

/M.M./