

NO
Appointment
Temporary States

IN THE CENTRAL ADMINISTRATIVE TRIAUNAL
AHMEDABAD BENCH

O.A. No. 439/88
TAX No.

DATE OF DECISION 1-9-1992

Shri P. M. Solanki Petitioner

Shri B. B. Gogia Advocate for the Petitioner(s)

Versus

Union of India and Ors. Respondent

Shri N. S. Shevde Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. ; N. V. Krishnan Vice Chairman.

The Hon'ble Mr. : R. C. Bhatt Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

Shri P. M. Solanki
Rajnagar Society,
Main Road,
Block No. 118/A
Rajkot 360 004

Applicant.

(Advocate : Shri B. B. Gogia)

Versus

1. Union of India
Owing & Representing
Western Railway
Through General Manager
Western Railway, Chruch Gate,
Bombay
 2. District Signal & Telecommunication
Engineer (Construction), ~~W.R.I.Y.~~,
Railwaypura ~~Post~~
Ahmedabad.
 3. Divisional Railway Manager
Western Railway,
Rajkot.
- Respondents.

(Advocate : Shri N. S. Shevde.

O R A L J U D G E M E N T

O.A. 439/1988

Date : 1-9-1992.

Per Hon'ble Shri N. V. Krishnan

Vice Chairman.

Shri Gogia for the applicant.

Shri Shevde for the respondents.

The application is an off shoot of an earlier litigation between the parties which was disposed of by the judgement 22/5/1987 in T.A. 1229/86 Annex. A-1 The following direction was given in that judgement.

" The plaintiff was clearly entitled to fresh appointment as casual labourer. It was for the respondents thereafter to consider the question of relaxation of age. Let it be stated here that even if the question of relaxation of age was decided against the plaintiff, his services cannot be terminated without complying with the provision laid down under the Industrial Disputes Act. The plaintiff has therefore merits in his case for claiming a fresh appointment as contended by him.

In the result, the petitioner is partly allowed. The respondents are hereby directed to offer an appointment to the petitioner as a casual labour within one month from the date of this order and consider the question of relaxation of his age for regular employment. In view of the special circumstances of the case the respondents are directed to pay the costs which we quantify at Rs. 500/- to the petitioner".

Not being satisfied, the applicant sought review (M.A. 239/87) of this judgement which was disposed by the Annexure A-2 order dated 28-4-1987. The Tribunal held that there was ^{no} case for review and observed that if the directions of the Tribunal were not properly implemented the applicant could file a fresh application.

2) Being dissatisfied by the order engaging him as a fresh casual labourer from 23-7-1987 only, instead of from 27-8-1980 when the civil suit 32 of 1977 filed by him was withdrawn in terms of a compromise, the applicant has filed this application seeking the following relief.

(A) The respondents may please be directed to treat the applicant as having been appointed from 27-8-1980 i.e. the date of filing of pursis exhibit 23 dated 27-8-1980 filed in Regular Civil Suit No. 321 of 1977 and grant him all consequential benefits of temporary status pay salary, allowances, its arrears, other privileges etc and regularisation of service as and when due consequentially.

(B) The respondents may please be directed to regularise his services on the basis of screening held in 1979 by relaxing his age as premised to him in the pursis as referred to above and/or on the basis of screenings subsequently held while he was out of job by the respondent no.3.

3) When the application was taken up for admission on 3-1-1989 the Bench made it clear that in the light of the earlier judgements, the relief sought for were not justified. The learned Counsel for applicant then restricted this application to the claim for being screened along with his juniors. The application has been admitted for this limited purpose.

4) The learned Counsel for the applicant admits that after this application was admitted, screening has taken place and an order dated 4-1-1990 of the Divisional Office, Rajkot, (i.e. respondent no. 3) has been issued. This order was admitted when M.A. 29/90 was allowed ^{admitted}. This gives a

statement which discloses the names of persons who have been ~~markedly~~ found suitable and who are placed on the provisional panel. It states that they will be offered appointment in Class IV services in accordance with their turn subject to clear vacancy being available and their passing the regular medical examination. The applicant has been shown at Sr. 96 in this statement. It is thus apparent that with this ~~decision~~ the application has become infructuous.

5) The learned Counsel has made only two submissions for consideration, Firstly he is at present engaged in Ahmedabad in the Signal Construction, whereas he should have been absorbed in Rajkot division, Secondly, ^{he} has lost place in the matter of seniority as his earlier service has not been counted.

6) We have heard the learned Counsel for the respondents. He states that it is clear from the order dated 4-1-1990 that the applicant has already been screened and he has to be absorbed in the Rajkot Division in accordance with his place in the seniority list. Temporarily he is working at Ahmedabad.

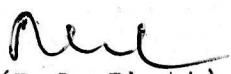
7) The learned Counsel for the applicant vehemently pressed that the screening should be related back to 1980. This has been specifically disallowed by the order dated 30-1-1989 when the application was admitted. However, it is quite possible that in considering his seniority the services that may have been rendered by him earlier to his termination in 1980 may not have been

considered.

8) We are satisfied that in so far as the limited matter which was to be considered in this application as mentioned in this order dated 30-1-1989, we find that nothing remains to be done on that score as applicant has already been screened and empaneled. This application is liable to be rejected as it has become infructious.

9) We order accordingly. However, while disposing of it, in this manner, we also make it clear that this order will not stand in the way of the applicant in ~~his~~ ^{making a representation to the} respondent to take into ~~the~~ account the service rendered by him prior to his termination, for the purpose of reckoning his seniority in the approved panel notified on 4-1-1990 and making another representation to the said authority for his transfer by the Rajkot Division. Likewise we also make it clear that in case such representations are received the respondent is at liberty to decide, dispose them of in accordance with law, ^{and} this order will not come in his way in this regard.

Application is disposed of accordingly. No order as to cost.


(R.C. Bhatt)
Member (J)


N.V. Krishnan
Vice Chairman