

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

O.A. NO. 119 of 1993.
~~119 of 1993~~

DATE OF DECISION 19th Aug.1994.

General Work's union, and ors. Petitioner

Shri Y.V.Shah Advocate for the Petitioner (s)

Versus

Union of India and ors. Respondent

Shri Anil S.Kothari Advocate for the Respondent (s)

CORAM

The Hon'ble Mr.K.Ramamoorthy : Member (A)

The Hon'ble ~~Mr~~ Dr.R.K.Saxena : Member (J)

JUDGMENT

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

/ 4.3

1. General Workman's Union,
and registered trade union,
having its office at
G.L.Rly.Yard colony,
PO :Godhra,
Panchmahal Dt.By its Secretary,
Shri J.K.Ved,
2. Harjibhai K.,
Elect Dept.Godhra.
3. Narsing Hirjibhai Bhil,
(Son of applicant No.2)

Applicants

Advocate Mr.Y.V.Shah

versus

1. Union of India,
Represented by the
General Manager,
W.Rly.,Churchgate,
Head Quarter Office,
Bombay.
2. The Divisional Railway Manager,
W.Rly.Pratapnagar,
Vadodara.

Respondents

Advocate Mr.Anil S.Kothari

J U D G M E N T

O.A.119/93

Date: 19-8-1994

Per : Hon'ble Shri K.Ramamoorthy, Member (A)

Through this petition, the applicant has sought the grant of benefit to him as available to loyal employees as mentioned in the letter No.EU/1160/133/10, dated 8-7-74, or the Chief Personnel Officer. The applicant is a Railway employee and according to him,

he showed his loyalty to his employer by not participating in the Railway strike, and therefore, here a claim for compassionate employment being given to his son. Such a request though was made by the employees, by way of their representations in February, 1990/91, remained unreplied. In their written statement, the respondents have averred that the applicant had no case at all since he cannot be called as a loyal employee. In fact he had been on leave since 9-5-74 to 18-5-94. In fact he had been on leave since 9-5-74 to 18-5-74, for a period of ten days.

The case of the applicant hinges on the definition of the term "loyal worker." It is the contention of the applicant that on the strike date, 8th May, 1974, he was very much ~~on~~ on job. According to the counsel for the applicants the term "attendance from the very first day of the strike," is important and since on the first day of the strike of the applicant was on the job, he should be treated as a loyal worker. The counsel for the applicant also cited the judgment of the Central Administrative Tribunal, Calcutta Bench to the effect that the person's presence on the first day should suffice and absence during same period of strike period, should not be construed to mean dis-loyalty. The medical certificate

2

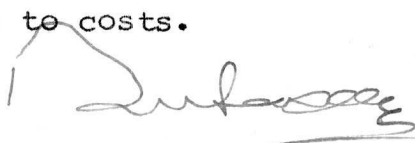
clearly shows that he was not on duty from 9-5-1974 and thereafter when he was granted sick leave. The applicant further stated that in the absence of the respondents' being able to produce the muster roll favourable inference will have to be drawn about the fact of the presence of the applicant on 8-5-1974. He also stated that the service book did not show the red seal, which is the mark of having participated in the strike and is the one documentary evidence having actually participated the strike.

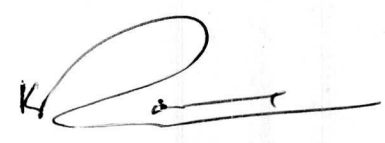
The counsel for the respondents have specifically stated that the ^equestion of giving benefit to a loyal worker is considered on merits and Railways themselves have taken into account the possibility of the employee might remain absent during the strike period. For this purpose, they have by virtue of a letter dated 7-6-82, clarified that the reward can be given only to those staff who are on leave upto 3 days.

We have gone through the averments of the applicant and the respondents. We have also heard the arguments of the counsel for the applicant, we have also gone through the service book of the applicant

referred to by the applicant's counsel as also the judgment of the Central Administrative Tribunal, Calcutta Bench. The service sheet clearly has the red seal affix both on the opening page as well as on the first page of the service sheet. It is seen that beyond affixing seal, the blanks are not fill-in nor is it specifically signed. The specific CAT judgment also cannot be read to draw the inference that mere presence on the first day of the strike entitles an employee to be called loyal worker. In fact the judgment clearly is to ^{the} be effect that a mere absence of two days during the strike period should not be construed to deny the benefits. In fact the Railways themselves have thereafter agreed to give facilities if the leave is upto three days. In this particular case, it is admitted that after attending on the first day from the very next day the applicant has gone on 10 days leave to coincide with the strike period. The question of the behaviour of the applicant is, therefore, a matter which is to be considered by the administration on the facts of the individual case and there is no adequate reason adduced to show that benefits for compassionate appointment of his son should also extend in this particular case.

The petition is, therefore, rejected. No order as to costs.


(Dr. R. K. Saxena)
Judicial Member


(K. Ramamoorthy)
Admn. Member

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Application No. 64/1993 of 19

Transfer Application No. _____ Old W. Pett.No

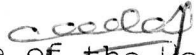
CERTIFICATE

Certified that no further action is required to be
taken and the case is fit for consignment to the
Record Room (Decided)

Dated : 23.09.94

Countersigned :


Section Officer/Court officer


Signature of the Dealing
Assistant

INDEX SHEET

NAME OF THE PARTIES Gen. Woomen's Union
MR. C. C. BUCKLEY & ASS.

U. S. 1-2 621

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