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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No.635 of 1993

Cuttack this the 6th day of December, 1995

B. Appa Rao

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Applicant (s)

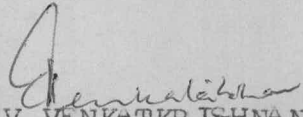
Versus

Union of India & Others ...

Respondent (s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? No
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? No


(P.V. VENKATKRISHNAN)
MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 635 of 1993

Cuttack this the 6th day of December, 1995

C O R A M:

THE HONOURABLE MR. P. V. VENKATKRISHNAN, MEMBER (ADMINISTRATIVE)
(ERNAKULAM BENCH)

Sri B. Appa Rao
Retd. Safety Councillor (Mech)
S.E. Rly, Khurdha Road,
residing at: Retang Colony,
Block No. 403-B,
Khurdha Road, PO: Jatni
Dist: Puri

... Applicant

By the Advocate: M/s. C. M. K. Murty
S. Kr. Rath

Versus

1. Union of India represented by
the General Manager, S.E. Railway
Garden Reach, Calcutta-43
2. Chief Personnel Officer, S.E. Rly,
Garden Reach, Calcutta-43
3. Divisional Rly. Manager,
S.E. Rly., Khurdha Road,
PO: Jatni, Dist: Puri

... Respondents

By the Advocate: M/s. B. Pal,
O. N. Ghosh

...

O R D E R

MR. P. V. VENKATKRISHNAN, MEMBER (ADMN): The applicant who is a retired Safety Councillor (Mechanical) in South Eastern Railways prays that his son may be employed in the Railways in terms of the scheme for Loyal Workers. His case is that during 1974 strike he had worked and the railway had announced a scheme under which those who have been loyal

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to the railways during the strike of 1974 would be offered employment assistance in the shape of employment to one son or daughter provided the employee was retiring within five years from 6.5.1974. Admittedly the applicant did not come within this category since he retired only ^{1st in 1st} 1986. But he contends that railways have not followed this criterion strictly in many cases and he has listed the names of twenty persons who were similarly situated as the applicant and who have been extended assistance under the Loyal Workers Scheme. Applicant also relies on Annexure-2 in which the Additional General Manager (Operations) S.E. Railways had recommended the case of the applicant. In Annexure-2, it is stated that "the grant of advance increment or employment assistance was admissible to the applicant as per the rules, but could not be given perhaps due to oversight." Nevertheless respondents did not offer such assistance to the applicant and he came to the Tribunal in Original Application 292/88. The Tribunal directed the respondents to consider the representation of the applicant for appointment of his son in a Class-IV job. Despite this the respondents did not comply with the directions. A review application filed by the respondents was also dismissed. When the applicant filed a Contempt Petition 35/92, the railways stated that the scheme had been closed in 1976, that the number of appointments permissible against the loyal quota was limited to 20 per cent of the vacancies and since the

number of applicants exceeded this figure there are many cases where such assistance could not be offered^{SI}, that the applicant did not satisfy the eligibility conditions under the scheme since he retired more than five years after 6.5.1974 and therefore, they could not comply with the directions of the Tribunal. However, the Contempt Petition was not pressed and on the contempt petition being withdrawn, the Tribunal passed orders giving liberty to the petitioner to file another Original Application. Accordingly the applicant has filed the present Original Application.

2. The arguments advanced by the respondents in this application are substantially those which were advanced in the Contempt Petition which have been referred to above. In addition, learned counsel for the respondents points out that the case is ~~favoured~~^{SI} ~~barred~~^{SI} by ~~res~~^{SI}judicata and is barred by limitation. The contentions advanced by the respondents have been noticed by the Tribunal even in O.A. No.292/88 and in the Review Application 2/92. The Tribunal was apparently not impressed by these arguments since the Review Application was dismissed.

3. It is clear from Annexure-2 that applicant was entitled to receive assistance under the scheme despite the fact that he did not retire before the prescribed date. This would support the contention of the applicant that though the eligibility criterion of retirement within five years of 6.5.1974 was put

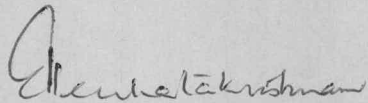
in the scheme, it was not strictly enforced. The question of the scheme being closed and therefore, assistance could not be given to the applicant at this point of time was considered by the Tribunal in Original Application 246 of 1991 which dealt with a similar situation. In that case the Tribunal stated "as regards the submission made by Shri R.C. Rath, that employment to the sons or daughters of loyal workers having been long closed the applicant cannot get the benefit at present is devoid of merit. This prayer of the applicant or his father having been delayed at the level of the departmental authorities they are not permitted to turn back and say that the scheme has since been closed. Principles of estoppel would strictly arise against the respondents." That apart it must also be noticed that at the time the Loyal Workers Scheme was in force, applicant's only son for whom employment assistance is now sought was a minor and could not have been offered employment assistance. In 1986 when applicant came up with this request for employment assistance for his son who was then aged 24, the respondents could have considered his request sympathetically and provided assistance. This, they have not done and despite a direction from the Tribunal in O.A. 292/88, applicant could not get the relief he was seeking.

4. Under the circumstances, I direct that the case of the applicant be considered afresh by the 2nd respondent, viz. Chief Personnel Officer,

South Eastern Railways, Garden Reach, Calcutta. For this purpose applicant may give a fresh representation setting out all the details and send it to the 2nd Respondent within one month from to-day. If such a representation is received, the 2nd respondent will consider ^{it as} sympathetically as is possible keeping in view the directions of this Tribunal in O.A. 292/88 and pass appropriate orders regarding the employment of the applicant's son in terms of the provisions of 1974 Loyal Workers Scheme as set out in Annexure-1, within three months from the date of receipt of this order.

The application is disposed of accordingly.

No order as to costs.


(P.V. VENKATESHWARAN)
MEMBER (ADMINISTRATIVE)

B.K.Sahoo//