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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 774/87
T.A. No.

198

DATE OF DECISION 28.8.90.

Bhanbalal Fathu

Petitioner

Mr. M. S. Ramamurthy, Advocate for the Petitioner(s)

Versus

Union of India and others

Respondent

Mr. J. G. Sawant, Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. G. Sreedharan Nair, Vice Chairman.

The Hon'ble Mr. M. Y. Priolkar, Member(A).

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?

(G. Sreedharan Nair)
Vice Chairman.

(P)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :NEW BOMBAY BENCH
NEW BOMBAY.

O.A. 774/87.

Bhannalal Fathu(deceased) ~~by~~
~~His legal heirs Smti Sumitra Bai~~ Applicant.
~~& Ors~~ versus
Union of India and others Respondents.

P R E S E N T :

The Hon'ble Shri G.Sreedharan Nair, Vice Chairman.

The Hon'ble Shri M.Y.Priolkar, Member(Admn).

For the applicant- Mr M.S.Ramamurthy, Advocate

For the respondents- Mr J.G.Sawant, Advocate

Date of hearing- 22.8.90

Date of Order - 28.8.90.

JUDGMENT & ORDER :

G.Sreedharan Nair, Vice Chairman :

It is alleged by the applicant (since dead) that he was under employment in a Railway Project from March, 1980, but was discontinued abruptly from service from 1st July, 1985 and that the representation made by him for taking him back to duty was of no avail. It is stated that in the last week of June, 1985, he was asked to perform the duty of a Watchman, but on account of abdominal pain he had to meet the doctor for medical treatment and since he was under treatment upto 30.6.1985, he was able to report for duty only on 1.7.1985, when the first respondent told him that he cannot be engaged further.

2. The relief claimed in the application is for declaring that the termination of service is illegal and for reinstatement.

3. Subsequent to the filing of the application the applicant passed away. His widow and children have been substituted as additional applicants. The relief claimed at present is to allow them the back wages that the original applicant was entitled to from the date of discharge till his

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death which took place on 24.1.1988. There is the further prayer for payment of family pension and other benefits and for a declaration that the minor son is entitled to appointment on compassionate grounds on the attainment of majority.

4. In the reply filed by the respondents, it is contended that the application is barred by limitation as the services of the applicant were dispensed with in July, 1985. It is stated that while being engaged a Casual Mate, the applicant unauthorisedly absented himself from duty from 5.7.1985 to 8.7.85 and from 11.7.85 to 18.7.85. It is pointed out that the applicant had not acquired temporary status and he left the job on his own accord.

5. It is seen that when the original application was admitted, the question of limitation was kept open. Counsel of the respondents pressed the contention regarding ~~barred of~~ limitation. Since the applicant was admittedly not engaged from July, 1985 and the application has been filed only in November, 1987, the contention regarding ~~barred by~~ limitation has to prevail.

6. The reliefs at present pursued by the legal representatives of the original applicant are three in number. The first relates to the wages from the date the original applicant was not engaged, till his death. Hence, the challenge against the termination cannot be sustained as barred by limitation, the said relief cannot be allowed.

7. The second relief relates to family pension and other benefits. There is nothing on record to indicate whether

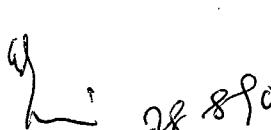
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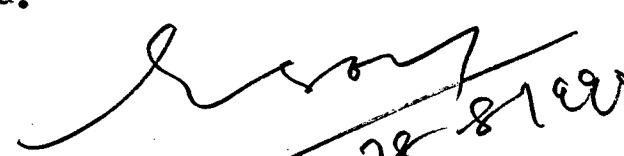
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the original applicant had even attained temporary status. Moreover, this is not a case where the original applicant ^{has retired from} service of the Railways. Hence, the claim for family pension has to be rejected.

8. The last relief for compassionate appointment of the minor son of the original applicant on the attainment of his majority cannot be entertained as ex facie it is premature.

9. The application is dismissed.


(M.Y. Priolkar)
Member (A)


(G. Sreedharan Nair)
Vice Chairman.

S.P. Singh/
24.8.90.