

(12)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

Tr.482/87

Datta Balkrishna Kekade,
House No.527-D,
Railway Colony,
R-B/2, Kurduwadi,
Dist.Solapur.

.. Applicant

vs.

1. Union of India
2. The Divisional Railway Manager,
Central Railway,
Solapur.
3. The General Manager,
Central Railway,
Bombay V.T.

.. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava, Vice-Chairman
Hon'ble Shri M.Y.Priolkar, Member(A)

Appearances:

1. Mr.S.R.Atre,
Advocate for the
Applicant.
2. Mr.V.G.Rege
Advocate for the
Respondents.

ORAL JUDGMENT:

Date: 6-6-1991

(Per M.Y.Priolkar, Member(A))

The applicant had worked as a casual labourer in the Kurduwadi workshop of the Central Railway with effect from 10th February, 1979 till 5th November, 1979 on daily basis and, thereafter, on monthly wages as a casual Khalasi from 1st February, 1980 till 17th December, 1980. He claims to have worked for some days during the year 1981 also but states that he has no record of the same. He worked also from 2.2.1982 to 30.12.1982 and from 1.1.1983 to 2.5.1983. His grievance is that on 3.5.1983 he was sent for medical examination but he was declared medically unfit in categories A-I to B-I without being furnished any reasons therefor or being given any certificate as to why he was declared unfit.

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2. According to the applicant, he was apparently found to be colour blind and therefore he has been declared unfit in B-I category. He has approached this Tribunal praying for the relief that since he has already acquired the status of the temporary railway servant, the decision of the railways in discontinuing his service without following the prescribed procedure deserves to be set aside.

3. According to the respondents, the applicant had been screened for regularisation of his services and was found suitable also but could not clear the medical examination prescribed under the rules and, therefore his services had to be discontinued. The argument seems to be that this medical examination is required only for regularisation of the services but that casual labourers even after acquiring the temporary status can be continued even for four years, as in this case, without requiring the employees to undergo the medical examination and any physical defect apparently does not come in the way of satisfactory performance of duties in the posts held by them on casual basis. This explanation is hardly convincing. The nature of physical disability has not been disclosed, and whether the disability is such as to make the applicant unfit for absorption in any other suitable post has also not been explained. There is apparently also a quota for employment on regular basis for physically handicapped persons but no reasons are forthcoming why the applicant could not be placed in the panel for appointment of such physically handicapped persons. Accordingly, we feel that in the interest of justice, a direction should be given to the railway administration to consider the applicant

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