

(13)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

Tr.484/87

Abdul Gani Usman Shaikh,
Labourer,
residing at
Patel Chowk,
Khurudwadi,
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 U.C.Srivastava, Vice-Chairman)

Writ Petition No.737 of 1984 filed
in the High Court of Judicature at Bombay is
transferred to this Tribunal under Section 29 of
the Administrative Tribunals Act. On transfer the
said Writ Petition has been renumbered as Tr.484/87.
In it the applicant has challenged the order of
removal from service dtd. 25-2-1981.

2. The applicant's father was a Fitter
in the Railway Workshop at Kurduwadi and when he
died while in service the applicant was aged 10 years
and he was physically handicapped. At the age of 13
he started working with the Indian Railways as a
casual labourer. From 1957 he continued to work as
Khalasi at various places. Earlier he was doing the

work of cleaning and sweeping. Thereafter he worked as Fitter Khalasi and Carpenter Khalasi. From the year 1979 he started getting monthly wages which are payable to Class C-I employees and worked as such for 23 months till January, 1981. On 17-2-1981 he was sent for medical examination and the Medical Officer declared him unfit for appointment as Khalasi Class C-I and that is why his services were terminated.

3. The respondents have resisted the claim of the applicant by filing their written statement. We have heard Mr. S. R. Atre, advocate for the applicant and Mr. V. G. Rege, counsel for the respondents.

4. The applicant who was appointed after the death of his father continued to work in the department for about 24 years and his services were terminated after 24 years on the ground that he is medically unfit, obviously being one eyed person. He was one eyed from the very beginning when he was appointed in the year 1957 and various other works were assigned to him. In case he was not fit for Class III post he could have been sent back to any other post. As he had attained temporary status long long ago termination of his service on this ground obviously is arbitrary and cannot be allowed.

5. Accordingly the order terminating his services is quashed and the respondents are directed to consider the applicant for appointment to any other post on which he has worked or on which he can work. He may be continued till he comes within the quota of physically handicapped persons when he can be regularised. The application is disposed of on the above lines with no order as to costs.

M.Y. PRIOLKAR
Member (A)

U.C. SRIVASTAVA
Vice-Chairman