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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

T.A. No. 527/87
XXXXXX

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DATE OF DECISION 2.5.1991

SHRI PERCY GUSTEDJI BAWAADAM, Petitioner

MR. G. K. MASAND

Advocate for the Petitioner(s)

Versus

UNION OF INDIA AND OTHERS

Respondent

MR. A. L. KASTUREY

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. U.C. SRIVASTAVA, Vice-Chairman

The Hon'ble Mr. M.Y. PRIOLKAR, MEMBER(A)

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

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
NEW BOMBAY

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TRANSFER APPLICATION NO.527/87

MR. PERCY GUSTEDJI BAWAADAM,
Room No.7, 3rd Floor,
Chaatriwalla Building,
20, Wadia Street, Tardeo,
Bombay - 400034

.. Applicant

Vs.

Union of India
through The General Manager
Western Railway,
Churchgate,
Bombay-400020

2. Divisional Railway Manager,
Western Railway,
Bombay Central,
Bombay - 400 008

3. Senior Divisional
Electrical Engineer (E)
Western Railway
Bombay - 400 008

.. Respondents

CORAM : HON'BLE SHRI U.C.SRIVASTAVA, Vice-Chairman
HON'BLE SHRI M.Y.PRIOLKAR, MEMBER (A)

Appearance :

Mr. G. K. Masand, Adv,
for the applicant

Mr. A. L. Kasturey, Adv,
for the respondents.

ORAL JUDGMENT
(PER : M.Y.PRIOLKAR, M/A)

DATED: 2.5.1991

This Writ Petition No.1911/83 was originally
filed in the High Court of Judicature at Bombay from where

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TR. NO.527/87

it has been transferred to the Tribunal under the provisions of the Administrative Tribunals Act 1985 and renumbered as Tr.No.527/87.

2. The grievance of the applicant is that even after working for over 12 years as a casual worker, his services were not regularised. On the other hand, he alleges that he was asked to appear once again for a medical examination. But when he reported for medical examination, according to him he was told by Railway doctors that he had already been medically examined once and he will not be examined once again. This is, however, disputed by the respondents in their written statement. Respondents have stated that the applicant has all along been avoiding going for medical examination even though he was specifically asked to report for medical examination.

3. No evidence has been produced on behalf of the applicant to show that in fact he had reported for medical examination at any time after joining service and medical examination was done. We are, therefore, inclined to agree with the respondents that the applicant of his own volition decided not to go for medical examination, inspite of specific memos issued to him to the effect that unless he is found medically fit, his services will not be regularised.

4. In the circumstances, we would only direct that the applicant may be medically examined now within a period of six weeks from the date of receipt of a copy of this order, in case he offers himself for medical examination within this

T. No. 527/87

~~Corrected~~
period, and in case he is found fit, he may be appointed ~~as a~~ in a regular Class IV post for which he is already screened, ~~as a~~ ~~casual labour Fitter in the next available vacancy~~ in accordance ~~as a~~ ~~with law.~~ He will not be entitled to any backwages for the intervening period but he will be treated as on leave of the kind due and will have the benefits of continuity in service for the entire period for the purpose of seniority for regularisation of service.

5. With ^{this} direction Tr. Application No. 527/87 is disposed of, with no order as to costs.

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25/81
(M.Y.PRIOLKAR)
Member (A)

U
(U.C.SRIVASTAVA)
Vice-Chairman

x. Substituted vide order dttd 31/2/92
in RP 7192

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Me
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