

(12)

CENTRAL ADMINISTRATIVE TRIBUNAL,
BOMBAY BENCH

Original Application No: 126/88

XXXXXXXXXXXXXX

DATE OF DECISION 9.11.1993

Shri S.G.Shriwardhankar Petitioner

Shri C.S.Thakore Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Shri V.S.Masurkar Advocate for the Respondent(s)

CORAM:

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

The Hon'ble ~~Smt~~ Lakshmi Swaminathan, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? No
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 ? No

Lakshmi Swaminathan
(SMT.LAKSHMI SWAMINATHAN)

MEMBER (J)

M.Y.P.
(M.Y.PRIOLKAR)
MEMBER (A)

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(13)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 126/88

Shri S.G.Shriwardhankar

... Applicant

v/s.

Union of India & Ors.

... Respondents

CORAM : Hon'ble Member (A) Shri M.Y.Priolkar
Hon'ble Member (J) Smt.Lakshmi Swaminathan

Appearance

Shri C.S.Thakore
Advocate
for the Applicant

Shri V.S.Masurkar
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 9.11.1993

(PER: M.Y.Priolkar, Member (A))

The applicant was appointed as Casual Ammunition Mechanic w.e.f. 6.12.1982. He was declared as Regular Temporary w.e.f. the same date vide Civilian Establishment Order No. 8 of 1984 dated 4.8.1984. The applicant's grievance is that his name was not included in the seniority list circulated by the respondents under the internal Note dated 29.11.1986 for the perusal of the employees. The applicant submitted a representation that he should be given seniority from 6.12.1982 from which date he has been regularly appointed against an existing vacancy. According to the learned counsel for the applicant, there has been no response to any of his representations on this subject.

2. Learned counsel for the respondents while admitting that the applicant was declared as Regular Temporary from 6.12.1982 stated that the applicant would be entitled to seniority only when he was appointed on regular basis against

a regularly sanctioned post w.e.f. 20.12.1985. The learned counsel for the respondents in support of this contention relied on the Ministry of Defence letters dated 24.11.1967 and 19.11.1983 on the subject of Terms and Conditions of service of casual non-industrial employees. These instructions of Ministry of Defence laid down that seniority of employees initially appointed on casual basis and subsequently regularised will count only from the date of their appointment on regular basis. It is seen, however, that no distinction has been made in these instructions between a regular temporary ~~service~~ ^{employee} and a regular permanent employee. Evidently, regularisation could be only in a temporary capacity initially until the employee is found fit for confirmation. Employees will also be temporary ~~but still~~ regular, if regularisation is only against sanctioned temporary posts. In either case, no rules or instructions have been shown to us which entitled the respondents to deny seniority to employees with such regular temporary service. We have perused the service-book of the applicant. There is also an endorsement ^{therein} that the applicant has been employed as Regular Temporary w.e.f. 6.12.1982.

3. In the circumstances, the application succeeds. The applicant will be entitled to count his service from 6.12.1982 for seniority and other benefits as regular service. The respondents are directed to refix the seniority of the applicant on the basis that his seniority should count from 6.12.1982 and also consider him in accordance with rules for further promotion on the basis of such revised seniority. This may be done within a period of six months from the receipt of a copy of this order. No order as to costs.

Lakshmi Swaminathan
(SMT. LAKSHMI SWAMINATHAN)
MEMBER (J)

M.Y. Priolkar
(M.Y. PRIOLKAR)
MEMBER (A)