

7

Transfer Application No:

DATE OF DECISION 22.9.93

Sbri Janardhan Bhalchandra Choudhari Petitioner

Shri S.B.Kasar, Advocate for the Petitioners

Versus

Union of India and Anr. Respondent

Shri P.R. Pai. 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 the Reporters of the Commission may be asked to see the Commission ?
2. To be referred to the Reporter or not ?
3. Whether the Commission may be asked to see the Commission ?
4. Whether it needs to be circulated to other Branches of the Tribunal ?

(M.Y.Priolkar)
Member (A)

(8)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 344/88

Shri Janardhan Bhalchandra Choudhari

... Applicant.

V/s.

Union of India through
The General Manager
Central Railway
Bombay VT.

The Divisional Railway Manager
Central Railway,
Bhusaval.

... Respondents.

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

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Appearance

Shri S.B. Kasar, counsel for
the applicant.

Shri P.R. Pai, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 22.9.93

{ Per Shri M.Y. Priolkar, Member (A) }

The applicant while working as Monthly Rated Casual Labour (M.R.C.L. in short) under permanent Way Inspector, Shegaon of Central Railway met with an accident on 4.7.86 and was admitted in Railway Hospital at Bhusaval, where he continued until 8.12.86. In view of the accident which resulted in amputation of his right hand, the Medical Officer of the Railway issued a certificate on 8.12.86 that the applicant is unfit for medical category as M.R.C.L. and he is fit under A3 category for any other job where use of right hand is not required. According to the applicant, he represented by letter dated 21.11.87 to the D.R.M. Bhusaval for suitable light job as recommended by the Medical Officer of the Railway, but instead of offering such light job, respondents asked him by letter dated 3.12.87 to register his name in Employment Exchange for Physically Handicapped Persons. Evidently, the respondents did not assign any work to the applicant inspite of the representation dated 21.11.87 supported

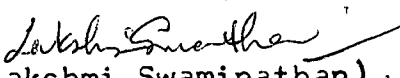
9


: 2 :

by Railway Medical Officer's certificate.

Admittedly, the applicant had acquired temporary status in service. It is not in dispute that services of the employees with temporary status cannot be terminated without taking action under Discipline and Appeal rules. In the present case the applicant has been prevented from resuming his duties without following the procedure prescribed under the Discipline and Appeal Rules. We see no justification in the action of the respondents in directing the applicant again for fresh registration in the Employment Exchange. In our view, the applicant should have been considered for a suitable job atleast from the date of his representation, namely 21.11.37. We, therefore, direct that the applicant should be treated as on duty from 21.11.37 with benefits of wages and continuity of service from that date. It will be open to the respondents even now to consider his representation dated 21.11.37 and see whether any suitable light work can be given to him but any such decision will have only prospective effect.

The applicant has also prayed for the relief of compensation for the loss of his right hand due to an accident stated to be arising out of and during the course of duty as per Workmen's Compensation Act. In our view the proper remedy for this was to approach the Competent Authority under Workmen's Compensation Act. The applicant, if so advised, may approach the proper forum for this relief in accordance with law. With the above directions, the application is disposed of. No order as to costs.


(Lakshmi Swaminathan)
Member (J)


(M.Y. Priolkar)
Member (A)

NS