

(7)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 763/89

XXXXXXXXXXXXXXXXXXXXX

DATE OF DECISION 30.3.1994

Shri P.D.Lilywhite Petitioner

Shri L.M.Nerlekar Advocate for the Petitioners

Versus

G.M.C.Rly, Bombay & Anr. Respondent

Shri Subodh Joshi Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice M.S.Deshpande, Vice Chairman

The Hon'ble Shri M.R.Kolhatkar, Member (A)

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*

M.R. Kolhatkar
(M.R.KOLHATKAR)
MEMBER (A)

M.S. Deshpande
(M.S.DESHPANDE)
VICE CHAIRMAN

(2)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 763/89

Shri Peter David Lilywhite

... Applicant

V/S.

The General Manager,
Central Railway, Bombay V.T.&Anr.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande
Hon'ble Member (A) Shri M.R.Kolhatkar

Appearance

Shri L.M.Nerlekar
Advocate
for the Applicant

Shri Subodh Joshi
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 30.3.1994

(PER: M.S.Deshpande, Vice Chairman)

By this application the applicant claims arrears of pay w.e.f. 7.10.1988 to 20.6.1990 when he was taken on duty.

2. The applicant was appointed in the year 1955 and from 1960 to 1982 he was Driver 'C'. He was absent from duties from 12.2.1981 to 30.6.1981 and by a decision taken in a disciplinary enquiry, he came to be reverted and appointed as Shunter. As the applicant was suffering from mental depression he absented from work from 1.4.1987 to 9.7.1988. On 9.7.1988 the applicant have claimed to have produced a medical certificate and asked for being taken on duty. By the letter dated 15.7.1988 written by the Medical Supdt. Central Railway, Nagpur to the DRM(P), Nagpur regarding the sickness of the applicant with reference to the letter dated 11.7.1988

in which DRM (P) was informed that since the latter had said that the name of the applicant had been struck off from service muster, the question of taking medical examination did not arise.

3. The respondents have stated in the written statement that the applicant had remained unauthorisedly absent without giving any application what-so-ever, from 9.4.1983 and he came to be allowed to resume duty under the letter dated 14.3.1990 subject to the Respondents doctors certifying him to be medically fit. It may be noted that when the question of medical examination arose, the Medical Superintendent had been informed that the name of the applicant was struck off from the service muster.

4. There is no controversy before us that no departmental proceedings have been held against the applicant before his name came to be struck off. Evidently, the name of the applicant could not have been struck off because that would entail termination of services without taking any action. There is no adequate explanation from the respondents why the applicant was not allowed to join service from 9.7.1988 to 20.6.1990.

5. In the circumstances, we hold that the applicant would be entitled to wages for this period. We, therefore, direct the respondents to pay wages to the applicant from 9.7.1988 to 20.6.1990. Liberty to the respondents to take ~~some~~ departmental action for absence, if that is found necessary and this order will not prejudice such action if taken. The respondents to pay the amount as directed above within two months from the date of communication of this order.

M.R. Kolhatkar

(M.R. KOLHATKAR)

MEMBER (A)

M.S. Deshpande

(M.S. DESHPANDE)

VICE CHAIRMAN