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CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No: 616/89

Transfer Application No:

DATE OF DECISION: 16.8.1995

V.N.Bokhare. \_\_\_\_\_ Petitioner

\_\_\_\_\_ Advocate for the Petitioners

Versus

Union of India & Ors. \_\_\_\_\_ Respondent

Shri S.S.Karkera. \_\_\_\_\_ Advocate for the Respondent(s)

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CORAM :

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

The Hon'ble Shri P.P.Srivastava, Member(A).

1. To be referred to the Reporter or not ? \_\_\_\_\_
2. Whether it needs to be circulated to other Benches of the Tribunal ? *no*

*(Signature)*  
(M.S.DESHPANDE)  
VICE-CHAIRMAN

(9) (11)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
BOMBAY BENCH, BOMBAY.

Original Application No.616/89.

V.N.Bokhare.

... Applicant.

V/s.

Union of India & Ors.

... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,  
Hon'ble Shri P.P.Srivastava, Member(A).

Appearances:-

Applicant in person.  
Respondents by  
Shri S.S.Karkera.

Oral Judgment:-

¶ Per Shri M.S.Deshpande, Vice-Chairman ¶ Dt. 16.8.1995.

The applicant was appointed as a Casual Driver from 17.6.1986 to 8.9.1988 for various periods and he requested by his two letters sent in 1987 for his case being considered for regularisation. He did not receive any reply and he made an application on 20.7.1988 for transferring his services to regular establishment as he had completed 240 days of work. However, without regularising him, the Additional Collector, Central Excise and Customs, Aurangabad abruptly terminated his services by the letter dt. 8.9.1988. The applicant, therefore, filed an application on 11.10.1988 before the Central Administrative Tribunal and his counsel withdrew that application on 10.3.1989. The applicant filed a Review Application questioning the authority of his advocate to withdraw the application, but the Tribunal by its order on the Review Petition held that the applicant's advocate had the authority to withdraw the application, with liberty to file another application on the same cause of action. The applicant therefore, filed this application seeking a declaration that the termination order dt. 8.9.1988 was improper and for regularising his services as regular Driver

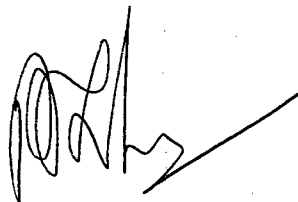
after he had completed 240 days of service. The applicant, however, got a fresh appointment on 7.3.1989 as a Driver after being tested for the post and that was a regular appointment.

2. The Respondents' learned counsel contended that the applicant was not entitled to count his previous services for seniority or for any other purposes since his regular appointment came to be made only on 7.3.1989. The applicant who argued his case in person drew our attention to the observations of Madras Bench of this Tribunal in E.Sirajudin V/s. Sub-Divisional Officer, Telegraphs (1990(2) ATJ 253), but that was a case where the termination was passed because a Criminal case was pending <sup>against</sup> the applicant therein. The order was set aside because the applicant had not been given notice before terminating his services and this decision would not therefore be of any assistance to the applicant. In The General Secretary Bihar State Road Transport Corporation, Patna V/s. The Presiding Officer, Industrial Tribunal, Patna & Ors (Civil Appeal No.1509(NL) of 1987 Decided on 16.12.1987), the Supreme Court in view of its earlier decisions directed that a scheme be prepared within 8 months for regularisation of Casual Labours who had been working for more than one year. This decision also would not be of any assistance to the applicant. The applicant stated before us that a scheme has already been prepared by the department in respect of the casual employees. But Shri Karkera, the learned counsel for the Respondents stated that no such scheme has been framed by the Central Excise and Customs Department so far which would cover the category of the applicant.

(H) (B)

3. We have given our anxious consideration to the pleas raised by the applicant. It is clear that the applicant's previous service which was merely on casual basis cannot be counted for the purposes of seniority or any other purpose since the regular appointment came to be made only from 7.3.1989. However, since the applicant had already worked for more than 240 days his services could not be abruptly terminated by the order dt. 8.9.1988. The applicant would therefore be entitled to wages at the rate which he had been drawing up to 8.9.1988 for the period between 8.9.1988 and 7.3.1989 when the fresh appointment was made, because the order dt. 8.9.1988 cannot be supported on any basis nor did the learned counsel for the Respondents urge any ground before us on the basis of which that order could be supported.

4. In the result, we grant to the applicant only the limited relief that the wages should be paid to him from 8.9.1988 to 7.3.1989 at the rate at which he had been drawing the wages prior to 8.9.1988. This be done within three months from the date of communication of this order. With this direction the O.A. is disposed of. There will be no orders as to costs.



(P.P.SRIVASTAVA)  
MEMBER (A)



(M.S.DESHPANDE)  
VICE-CHAIRMAN

B.