

(06)

CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 199/89

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198

DATE OF DECISION 17.6.1991

Shri D.T.Bavaskar. Petitioner

Shri L.M.Nerlekar

Advocate for the Petitioner(s)

Versus

Divisional Railway Manager, B'bay V.T.
Respondent

Shri J.G.Sawant.

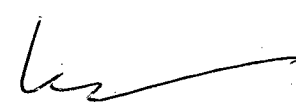
Advocate for the Respondent(s)

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 ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether in needs to be circulated to other Benches of the Tribunal ?


(U.C.SRIVASTAVA)
VICE-CHAIRMAN.

(07)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

Original Application No. 199/89

Shri Dattatraya Tukaram Bavaskar

... Applicant.

V/s.

Divisional Railway Manager,
Central Railway,
Bombay V.T.

... Respondent.

Coram: Hon'ble Vice Chairman Shri U.C. Srivastava
Hon'ble Member (A) Shri M.Y. Priolkar.

Appearances

Applicant by Shri L.M. Nerlekar

Respondent by Shri J.G. Sawant.

Oral Judgement


Dated: 17.6.91

{ Per Shri U.C. Srivastava Vice Chairman }

The services of the applicant who was working as a temporary Khalasi were terminated and the applicant against the order of termination had approached this Tribunal. The Tribunal had dismissed the application holding that there is no breach of section 25 F of the Industrial Disputes Act. A Review Petition was received and dismissed. An S.L.P. was also dismissed by the Supreme Court of India on 9.5.1988. According to the applicant the Supreme Court of India opined that in case this application deserves, the respondents will certainly follow provisions of Industrial Disputes Act, 1947. The applicant by his letter dated 1.10.1988 submitted an application to the respondents requesting that he may be given preference in employment in preference to his juniors in accordance with the provisions of section 25 -G and 25 -H of the Industrial Disputes Act, 1947.

2. The applicant was appointed as a temporary Khalasi in Central Railway on 11.9.1983 and his services were terminated on 22.2.1985.

3. It was stated by the counsel for the respondents that there were 500 vacancies with the respondents on 26th February 1981. The applicant has prayed that the respondents be directed to re-employ the applicant in accordance with section 25-G and 25-H of the Industrial Disputes Act, 1947 on and from the date of vacancy arose and the applicant be also paid full back wages from the said date. In the written statement filed by the respondents, the respondents have submitted that the applicant cannot be re-employed as his Casual Labour card was found to be bogus and deserves to be rejected. So far as the bogus card is concerned, obviously no such conclusion can be arrived at unless an inquiry in the matter is held. No inquiry was obviously conducted as there was no occasion for it. The applicant if otherwise entitled to get preference over his juniors, the same cannot be refused on the ground that he was holding bogus card. Accordingly the application is allowed to the extent that the respondents to appoint the applicant in preference to new comers and juniors, if any, who have already been appointed, taking into consideration the provisions of section 25-G and 25-H of the Industrial Disputes Act. This shall be done expeditiously. The application is disposed of. No order as to costs.


(M.Y. PRIOLKAR)
MEMBER (A)


(U.C. SRIVASTAVA)
VICE CHAIRMAN