

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 107/89

199

T.A. NO: _____

DATE OF DECISION 1-4-1992

Krishnamachari Gopalachari

Petitioner

Applicant inperson

Advocate for the Petitioners

Versus

General Manager, Central Railway, Bombay V.T.

Respondent

and one another.

Mr. V. G. Rege

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice 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 it needs to be circulated to other Benches of the Tribunal ?

mbm*

MD

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(U.C.SRIVASTAVA)

(10)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.107/89

Krishnamachari Gopalachari,
Room No.1202, Bldg.No.33,
C.G.S.Colony, Sector VII,
Antop Hill, Koliwada,
Bombay - 400 037.

.. Applicant

vs.

1. General Manager,
Central Railway,
Bombay V.T.

2. F.A. & C.A.O.,
Central Railway,
Bombay V.T.
Bombay

.. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava,
Vice-Chairman.

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

Appearances:

1. Applicant in
person.

2. Mr.V.G.Rege
Advocate for the
Respondents.

ORAL JUDGMENT:

Date: 1-4-1992

(Per U.C.Srivastava, Vice-Chairman)

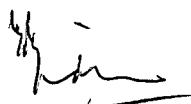
By means of this application the applicant has prayed that the respondents be directed to condone the break in service of the applicant to the extent of one year, one month and 14 days and grant him full retirement benefits which has been denied to him because of non condonation of the said break.

2. The applicant was appointed on 28th April, 1950 and was retired on 31st July, 1988. As per his allegation, he resigned from service due to constant ill health of his mother who required a lengthy Ayurvedic treatment at his native place. He resigned on 2-3-1970. As his mother recovered the applicant was reappointed on 16-4-1971 and continued to work till he attained the age of superannuation. Because of this small break he

made a representation to the Chairman, Railway Board for condonation of the same for the purpose of obtaining full retirement benefits as the pension now ~~is~~ given to him is too low and in case the break is condoned he will be getting substantial pension. Applicant's case was recommended by the General Manager, Central Railway, who has stated that the applicant's interruption in service was because of the reasons beyond his control and ~~in~~ ~~case~~ he had also recommended his ~~case~~ strongly. But the delay was not condoned. According to the applicant although in his case the break was not condoned in the case of Smt. L.S. Jogdev break in service of more than two years were condoned. Respondents in their written statement stated that so far as the case of Smt. L.S. Jogdev is concerned it is entirely on different footing and the consideration in her ~~case~~ was different. She had lost her husband in a tragic scooter accident and being a widow with children she required greater financial ~~assita~~ assistance. In these circumstances the same was granted and according to them no such justification to consider the case were present in the case of the applicant. That is why his case for break in service was not condoned. In this connection they have made reference to Office Memorandum No.F.11(3)-EV(A)/76 dated 28.2.76 issued by the Ministry of Finance, Government of India as circulated in the letter No.F(E)/III/76 PN1/3 dated 8.4.76 of the Ministry of Railway, Govt. of India, as a result whereof the provisions contained in rule 2437 of Indian Railway Establishment Code Vol. II and para 427 of Manual of Railway Pension Rule stood modified, according to which certain factors are to be kept in view while condoning the break, i.e. (a) circumstances which necessitated

submission of the resignation by the employee, (b) circumstances which necessitated seeking re-employment and (c) circumstances surrounding the employee at the time of condonation of break in service.

3. ^{contd} Applicant's condonation is that after serving for more than 19 years and going to complete 20 years and under the compelling circumstances because of ~~hi~~ the illness of his mother he ~~had~~ to go to his village he could not concentrate on his work and has resigned. Later on all these circumstances were taken into consideration by the respondents and that is why he was taken back in service. Once the applicant's genuine prayer was accepted and the Railway Board is of the view that he should be taken back in service there is no reason why his prayer for condonation of break in service should not have been considered. The circumstances are the same when he was taken back in service and for making the prayer for condonation of break in service. Accordingly the respondents are directed again to consider the prayer of the applicant within two months from the date of communication of this order taking into consideration that they have accepted his prayer once and taken ^{him} back in service and such prayers can ~~not~~ always be granted.



(M.Y.PRIOLKAR)
Member(A)



(U.C.SRIVASTAVA)
Vice-Chairman