

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI
NEW BOMBAY BENCH

O.A. No.

37/1989 198

T.A. No.

DATE OF DECISION 29.3.1989

Shri M.R.Kulkarni,

Petitioner

Shri B.G.Chaudhury,

Advocate for the Petitioner(s)

Versus

Union of India.

Respondent

Shri A.L.Kasturey

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.B.Mujumdar, Member(J),

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

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Original Application No.37/1989.

Shri Murlidhar Ramnath Kulkarni,
At & Post Nandurbar, 425 412,
Dist: Dhule.

... Applicant.

V/s.

Union of India, through
The General Manager,
Western Railway,
Churchgate,
Bombay - 400 020.

... Respondent.

Coram: Hon'ble Member(J), Shri M.B.Mujumdar,
Hon'ble Member(A), Shri M.Y.Priolkar.

Oral Judgment:

{Per Shri M.B.Mujumdar, Member(J)} Dated: 29.3.1989

The applicant was appointed as a Khalasi in the Western Railway on 6.2.1960. By order dated 4.9.1974 he was informed that the work for which he was employed was coming to an end and his services were no longer required by the office. Accordingly his services were terminated w.e.f. 9.10.1974. In the order itself it was mentioned that retrenchment compensation would be paid to him as per the Industrial Disputes Act Rules. Accordingly the compensation was paid to the applicant. However, due to the repeated representations of the applicant, the applicant was found eligible for empanelment of panel of "Class-IV Work side of Assistant Engineer, Nandurbar". Thereafter,

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the applicant joined service as Khalasi on 8.1.1982.
He retired on sunerannuation on 31.12.1985. After serving a notice through his advocate the applicant has filed this application on 3.1.1989 under section 19 of the Administrative Tribunals Act, 1985.

2. In this application the applicant has prayed for his wages from 9.10.1974 to 8.1.1982 with interest and pension from 1.1.1985.

3. By our order dated 15.2.1989 we had issued notice to the respondent. Just now we have heard Mr.B.G.Chaudhary, learned advocate for the applicant and Mr.A.L.Kasturey, learned advocate for the respondent. After hearing them and considering the facts we are of the view that this application does not deserve to be admitted.

4. It is true that the applicant was serving as a Khalasi from 6.2.1960 to 9.12.1974. It was by an order dated 4.9.1974 that he was retrenched. In this order itself it was made clear that the applicant would be paid retrenchment compensation as per the Industrial Disputes Act Rules. Accordingly the applicant was paid retrenchment compensation plus some amount which was due to him. He was taken back in service on 8.1.1982 as per the order dated 19.12.1981. But there is nothing

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to show that the period from 9.10.1972 to 7.1.1982 was treated to be on duty. In other words, the break in service was never condoned. Moreover, it appears that the he was taken back in service on 8.1.1982 due to his repeated representations. Copies of these representations are not produced before us ^{but} the order dated 19.12.1981 shows that he was held eligible for empanelment in the panel of Class-IV Work side of Assistant Engineer at Nandurbar. It means that it was a fresh appointment. It is true that in that order in remarks column it is mentioned that initial date of appointment of the applicant was decided as 6.2.1960. In our view, this appears to be a factual statement, but that will not lead us to the inference that the period from the date of his retrenchment till he was taken back in service was directed to be treated as on duty for any purpose.

5. Hence as the applicant was not in service from 9.10.1974 to 7.1.1982 he will not be entitled to the wages for that period. Similarly as the applicant had served only for a short period of about 4 years, we do not think that he will be entitled to any pension on his retirement. Hence we find that this application is devoid of any merit. No purpose would be served by admitting this application. Hence we reject the application summarily, with no order as to costs.


(M.Y. PRIOLKAR)
MEMBER(A)


(M.B. MUJUMDAR)
MEMBER(J).