

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW BOMBAY BENCH

O.A. No. 261/89 198  
XXX No.

DATE OF DECISION 5.7.1989

Shri N.T.Menghrajani Petitioner

Shri V.C.Bhaya Advocate for the Petitioner(s)

Versus

Union of India and others. Respondents

Advocate for the Respondents(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?
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?

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY 400 614

(h)

OA NO. 261/89

Shri N.T.Menghrajani  
C/o.Shri V.C.Bhaya,  
Advocate High Court  
Chandan Mahal, R/No.31,  
11th Road, Santacruz (West),  
Bombay 400 055,

... Applicant

vs.

Union of India through  
the General Manager, Central Rly.,  
Bombay V.T.

2. Chief Personnel Officer,  
C.Rly., Bombay V.T.

3. Dy.Chief Mechanical Engineer/  
Addl.Chief Mechanical Engineer/  
(now known as) Chief Workshop Manager,  
C.Rly., C & W Workshop, Mechanical Deptt.,  
Matunga, Bombay. ... Respondents

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

ORAL JUDGMENT

Dated: 5.7.1989

(PER: M.B.Mujumdar, Member (J)

Heard Mr.V.C.Bhaya, learned advocate for the applicant.

2. The applicant was appointed as a Clerk in Central Railway at Jhansi in 1958. He was transferred to Matunga on mutual request. He resigned from service on 14.11.1966. In 1970, he applied for re-employment and the Railway Administration re-employed him with a specific condition that he would be employed as a fresh employee for all purposes and the past service rendered by him would not be considered for any purposes. Accepting that condition, he joined service as a Junior Clerk on 17.2.1971. From 8.5.1974 to 21.5.1974 there was a strike of railway employees. According to the applicant he had not joined the strike but he was on duty during that period. Hence, on 30.11.1974 he made a representation for treating him as a loyal employee. That request was rejected by letter dated 30.8.1976 by pointing out that from the records available in the office it was seen that he was absent on 8.5.1974.

3. On 11.4.1989 the applicant has filed this application praying that (1) the order dated 30.8.1976 be quashed and set aside and respondent No. 1 be directed to examine the question of treating the applicant as a loyal worker. (2) Quash and set aside the decision given by the Chief Personnel Officer (M) dated 21.12.1988 at Ex.'O' to the application. (3) Direct the respondents to obtain sanction for condonation of break in service for the period from 15.11.1966 to 16.2.1971 for the purpose of retirement benefits and for directing the respondents to declare that the applicant is a loyal worker.

4. We have just now heard Mr.Bhaya, learned advocate for the applicant.

5. In the first place the applicant's request for treating him as a loyal worker i.e. a worker who had worked during the period of strike was rejected by the authorities on 30.8.1976 (Ex.'G'), by pointing out that the applicant was absent on 8.5.1974. We do not think that the applicant can legally challenge this decision by filing this application in 1989. We have no doubt that this request is hopelessly time barred in view of Section 21 of the Administrative Tribunals Act.

6. As regards the 2nd request, we may quote the final reply of the respondents dated 21.12.1988.

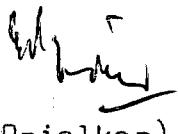
"Sub:- Request for condonation of break-in service -  
Shri N.T.Menghrajani, Sr.Time Keeper, MTN:  
Ref:- Your letter No.E.538-N dt. 20.9.88.

.....

Reference your letter quoted above, You are advised that the request of Shri N.T.Menghrajani, Hd.Clerk Gr.Rs.1400-2300 (RPS) CWM's Office, MTN for condonation of break-in service for the period from 12-11-66 to 16-2-71 cannot be acceded to for the reasons that at the time of his re-engagement he was specifically advised in the clear and unequivocal terms that his past services will not be counted for any purpose and that his appointment is fresh and purely on temporary basis and Shri N.T.Menghrajani vide his

application dated 27-1-71 had given his written declaration stating that he is accepting re-employment as a fresh entrant and on clear understanding that his previous services will not be counted for any purpose. Shri N.T.Menghrajani may therefore please be advised accordingly."

7. It is found from the application itself that the contents given in this reply dated 21.12.1988 are correct. The applicant has resigned from service on 14.11.1966 and he applied for re-employment in 1970. His request for re-employment was considered favourably and he was re-employed with a specific condition that his past services would not be counted for any purpose and his appointment was fresh. The applicant accepted that condition by the application dated 21.1.1971 by giving a declaration that he was accepting the re-employment as a fresh appointment. In view of this undisputed fact, we are unable to understand how the applicant's request for condonation of break in service for a period of about 5 years can be granted. We, therefore, find that this application is not worth admitting and hence reject the same summarily under Section 19 of the Administrative Tribunals Act, with no orders as to costs.

  
(M.Y.Priolkar)  
Member (A)

  
(M.B.Mujumdar)  
Member (J)