

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 88/89

TxxxNoxx

198

DATE OF DECISION 19-11-1990

Kishor Bhaskar Raul Petitioner

Mr.H.J.Acharya Advocate for the Petitioner(s)

Versus

Union of India and another Respondent

Mr.N.K.Srinivasan Advocate for the Respondent(s)

CORAM

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

The Hon'ble Mr. N.Dharmadan, Member(J)

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*

(2)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

C.A.88/89

Kishor Bhaskar Raul,
R/o.Bazarwad,
Ful pada Road,
Attend Post Virar(East),
Taluka Vasai,
Dist.Thane
PIN 401 303.

.. Applicant

vs.

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

2. Divisional Railway Manager
Bombay Division,
Bombay Central Railway Station
premises,
Bombay - 400 008.

.. Respondents

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

Hon'ble Member(J)Shri N.Dharmadan

Appearances:

1. Mr.H.J.Acharya
Advocate for the
applicant.
2. Mr.N.K.Srinivasan
Advocate for the
respondents.

ORAL JUDGMENT Date: 19-11-1990
(Per N.Dharmadan,Member(J))

The applicant who had worked as
Mobile Booking Clerk in Bombay Division of the
Western Railway from 3.4.81 to 2.7.84 approached
this Tribunal by ~~fixx~~ filing this application
under Section 19 of the Administrative Tribunals
Act with the following prayers:-

(i) the respondents be directed to
consider the applicant for
absorption against regular
vacancies in terms of Railway
Board directives;

(ii) the hearing of the application be expedited;

(iii) such relief and further relief as the nature and circumstances of the case may require."

2. The applicant's case is that on 2-7-84 he fell ill and he could not attend to the works. When he recovered from his illness he approached the second respondent for engaging him for work on 22-7-85. According to him he also produced medical certificates, but the same was not accepted by the second respondent on the ground that it is not necessary because he was not treated as a regular employee by the respondents.

3. Since the applicant was not engaged for work after 22-7-85 he submitted a representation relying on annexure-2, letter of the Railway Board dtd. 21-4-1982 and contended that he has already put in service as Mobile Booking Clerk for three continuous years and he is entitled to regularisation under the said letter. It is also brought to our notice that as per annexure-3 his name was recommended for regularisation by Station Superintendent, at Bombay Central. According to the applicant his request was not considered inspite of the recommendations of the Station Superintendent as indicated above. But ultimately his request was rejected as per

annexure-5 dtd. 1-8-1985.

4. The applicant also submitted an appeal against the decision at annexure-5 which was also rejected as per the annexure-8 letter dtd. 26th July, 1988 by D.R.M., Bombay Central. Thereafter the applicant filed the present application for regularisation of his service.

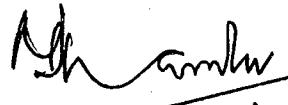
5. In the meantime the union has taken up his case with the Permanent Negotiating Machinery under Rule 3.7.15 in Chapter 37 of the Indian Railway Establishment Manual for getting relief. This has been taken up as item 24 of 1989(Annexure 'A') in the meeting held on 22/23-5-1989 but no final decision has been taken in view of the pendency of this application.

6. We are of the view that the applicant cannot pursue his remedy both before this Tribunal and before another forum provided under the Railway Establishment Manual simultaneously. His submission is that the remedy pursued by the Secretary of the Union in which he is a member, has not been proceeded because of the pendency of this application. From the facts stated before us it is clear that but for the pendency of this original application the applicant's case could have been considered and disposed of by the Permanent Negotiating Machinery contemplated under the aforesaid rule of the Railway Establishment Manual. ~~XXXXXX~~

Under these circumstances we are of the view that it is unnecessary to go into the various contentions of the applicant and the case can be disposed of with this directions.

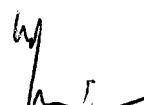
7. Hence in the facts and circumstance of the case it will be fair and proper to dispose of the application with the observation that the matter now pending before the Permanent Negotiating Machinery as item 24 of 1989(Annexure 'A') in the meeting held on 22/23-5-1989 taking into consideration Railway Board's letter, annexure-2, dtd. 21-4-1982 and annexure-3 recommendation made by the Station Superintendent ,Bombay Central. In case the applicant does not get any relief he is free to take appropriate steps in accordance with law for getting reliefs. The Permanent Negotiating Machinery may take a decision as expeditiously as possible without any delay.

8. The application is disposed of with no order as to costs.


(N.DHARMADAN)

Member(J)

19.11.90


(M.Y.PRIOLKAR)

Member(A)