

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

(10)

O.A. NO: 324/89

199

T.A. NO:

DATE OF DECISION 11.2.1992

SHRI MOHAN ANANT SAWANT

Petitioner

MR. L. M. NERLEKAR

Advocate for the Petitioners

Versus

DIVISIONAL RAILWAY MANAGER

Respondent

MR. SUBODH JOSHI

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 ?

U.C.SRIVASTAVA
VICE-CHAIRMAN

mbm*

(11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

ORIGINAL APPLICATION NO:

SHRI MOHAN ANANT SAWANT
Takandas Kataria Marg,
Mahim, Bombay-400016

....applicant

V

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

....respondents.

CORAM : HON'BLE JUSTICE MR.U.C.SRIVASTAVA, Vice-Chairman.

HON'BLE MEMBER SHRI M.Y.PRIOLKAR, MEMBER (A)

Appearance :

Mr.L.M.Nerlekar, Adv.
for the applicant.

Mr.Subodh Joshi, Adv.
for the respondents.

ORAL JUDGEMENT

DATED :11.2.1992

(PER : JUSTICE U.C.SRIVASTAVA, Vice-Chairman)

From the pleadings of the parties it emerges out that the applicant was appointed as casual labour/ substitute safaiwala at the Central Railway with effect from 7.11.1983 although as per allegation of the applicant he was appointed with effect from 4.6.1983, for which there is no evidence on the record. On 5th March 1984, the applicant was given one month's notice i.e. his termination will have effect from 5.4.1984. Thus, this notice was given just prior ^{to} expiry of 120 days and the respondents have assigned the reason, that the applicant was not holding any card, his services were not required, that is why his services were terminated. The applicant approached this Tribunal only in the year 1989 and

(IV)

explaining the reasons for delay, which according to him was that, he was waiting for the results of the cases which was pending before the Supreme Court and elsewhere was expecting the relief from the department also. That is why, he did not approach the Tribunal. May it be so, but the applicant did not complete 120 days of the working, which could have conferred any right on him so as to claim the benefits under Section 26 G and H of the Industrial Dispute Act, the main plank of the argument of the learned counsel for the applicant is that, as he was to be deemed to be retrenched employee within the meaning of Industrial Disputes Act and he was entitled to the benefits under Section 26 G and 26 H of the Industrial Disputes acts, and his name could have been included in the Register of retrenched employee by virtue of seniority, which would have enable him to get an appointment as and when his term comes. In the instant case, as the applicant has not retained his status, which could have enable him to include his name in the register, as the intention to terminate his services were given prior to the expiry of 120 days, the question of inclusion of his name could not arise and consequently, the applicant is not entitled either to the benefits under the Industrial Dispute Act, which has been claimed by him. However, as the Railway is the expanding department, it is for the Railway to utilise the services of the applicant as he has gained some experience while working in the Railway and in case he approaches the Railway, it is for the Railway Administration to decide whether he can be taken as a new casual labour again or not.

With these observation and direction, this application is disposed of or otherwise dismissed with no order as to costs.

u
(M.Y.PRIOLKAR)
MEMBER (A)

u
(U.C.SRIVASTAVA)
VICE-CHAIRMAN