

(q)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 389/89

XXXXXX

198

DATE OF DECISION 4.2.1992

Shri S.K.Prasad Petitioner

Shri L.M.Nerlekar Advocate for the Petitioner(s)

Versus

Divisional Rly. Manager, C.Rly, Respondent
Bombay V.T.

Shri 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 ? *No*
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*

[Signature]

(10)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

O.A.NO. 389/89

Shri S.K.Prasad

... Applicant

V/S.

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

... Respondents

CORAM: Hon'ble Shri Justice U.C.Srivastava, Vice Chairman
Hon'ble Shri M.Y.Priolkar, Member (A)

Appearance

Mr.L.M.Nerlekar
Advocate for the Applicant

Mr.Subodh Joshi
Advocate for the Respondents

ORAL JUDGEMENT

Dated: 4.2.1992

(PER: U.C.Srivastava, Vice Chairman)

The applicant was appointed as Khalasi in PWI(Bird) from 3.4.1984 to 2.10.1984 and thereafter from 2.11.1985 to 18.6.1986 under the Inspector of Works (C) Central Railway Kalyan. The applicant states that from 19.6.1986 he was not taken on duty without assigning any reason. He approached the authorities vide his letter dated 19.8.1986 stating that his services have been wrongfully terminated on the ground produced that they have bogus service card. This fact is also established by the written statement which has been filed by the respondents. By working for more than 120 days the applicant has attained the status of temporary employee and the services of a temporary employee cannot be terminated in this manner. In case the services were to be terminated of a temporary employee by way of penalty, the applicant was to be given an opportunity of hearing but that was not done in violation of Article 311 of the Constitution of India.

Accordingly this application deserves to be allowed in as much as the applicant will be deemed to be in continuous service and the respondents will be free to hold an enquiry against the applicant. In case, the respondents come to the conclusion after the enquiry that they have produced bogus service card, then the termination order will stand. Otherwise, the applicant will be reinstated ^{back} in service. However, we make it clear that the applicant's services will be discontinued up-to the date they are not taken in service. The applicant shall not be given any wages in view of the fact that they have not worked. The respondents are directed to conclude the enquiry within a period of three months from the date of the communication of this order and the applicant shall fully cooperate with the enquiry. In case the enquiry will not be concluded within this period, then the applicant will be entitled to claim reappointment and salary.


(M.Y. PRIOULKAR)
MEMBER (A)


(U.C. SRIVASTAVA)
VICE CHAIRMAN