

28/8

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 658/96

Transfer Application No.

Date of Decision 18.9.97

V.B.Rane

Petitioner/s

Shri D.V.Gangal

Advocate for
the Petitioners

Versus

Union of India & Ors.

Respondent/s

Shri Suresh Kumar

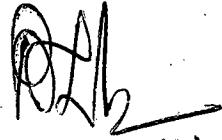
Advocate for
the Respondents

CORAM :

Hon'ble Shri. P.P.Srivastava, Member (A)

Hon'ble Shri.

(1) To be referred to the Reporter or not ? *Yes*
(2) Whether it needs to be circulated to
other Benches of the Tribunal ? *No*


(P.P.SRIVASTAVA)
MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

OA. NO. 658/96

Thursday this the 18th day of Sept - 1997

CORAM: Hon'ble Shri P.P.Srivastava, Member (A)

Vishwanath Bhaskar Rane,
Khadka Road, Working as
Khalashi, Near Siddheshwar
Mandir, Bhusawal.

By Advocate Shri D.V.Gangal

... Applicant

v/s.

1. Union of India through
The General Manager,
Central Railway,
Central Railway Headquarters,
Bombay V.T.
2. The Divisional Railway Manager,
Central Railway, Bhusawal Division,
Bhusawal.
3. The Deputy Chief Electrical
Engineer (Construction),
Central Railway,
Bhusawal Division, Bhusawal.
4. The Deputy Chief Electrical
Engineer, Electric Locomotive
Workshop, Central Railway,
Bhusawal.

By Advocate Shri Suresh Kumar

... Respondents

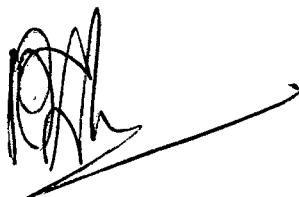
ORDER

(Per: Shri P.P.Srivastava, M(A))

The applicant was appointed as Casual
Labourer in 1979. The applicant worked from 1979-
1989 partly under 4th respondent and partly under
3rd respondent, i.e. under Divisional Railway Manager,
Bhusawal and Deputy Chief Commercial Manager, Bhusawal.
The applicant's case is since he has been appointed
prior to the 18th December, 1980, he has a prior claim
for regularisation over any other employees who were
appointed after 18.12.1980. The date 18.12.1980 is

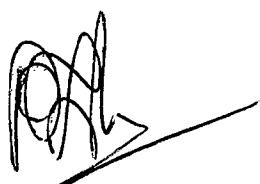
important as after that date the Railway Board has brought ban on appointment of casual labour. The total service of the applicant, as mentioned by the applicant in para 4.3, is from 25.12.1979 to 18.1.1980 and 25.8.1981 to 19.7.1985 under Respondent No.3, i.e. Deputy Chief Electrical Engineer (Construction). The applicant has also brought out that he has worked from 13.4.1988 to 8.7.1988 and 19.4.1989 to 14.7.1989 under the Electrical Foreman Train Lighting under the 3rd Respondent. The applicant has further submitted that his services were terminated on 19.7.1985 and he was neither given notice or one month's notice as required under the provisions of Industrial Dispute Act. The applicant has further submitted that screening had been held by the Respondent No. 3, i.e. Divisional Railway Manager, Bhusawal many times but the applicant had not been called for screening.

2. Learned counsel for the applicant has argued that all that he is seeking in this OA. is the applicant should be called for screening. For this purpose, he is relying on the judgement of this Tribunal in OA.NO.400/90 wherein in similar circumstances, the Tribunal had granted relief to the two applicants therein to consider the claim of the applicants for screening.



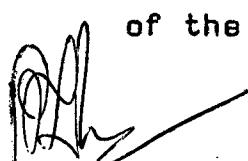
3. The respondents have submitted a written statement and they have brought out in Para 7 that the applicant was appointed as Casual Labourer from 25.12.1979 to 18.1.1980 by CIOW Workshop, Central Railway, Bhusawal and not as a Carpenter as brought out by the applicant. The applicant continued to work under Shop Superintendent(Construction), Bhusawal upto 18.7.1985. The respondents have further brought out that the applicant was discharged from service after following the prescribed procedure and retrenchment compensation has already been paid the for L period of service rendered by the applicant as casual labourer.

4. The respondents in Para 10 have further brought out that one month's notice was given to the applicant vide their notice dated 18.6.1985 which was duly acknowledged by the applicant. The respondents have further brought out that payment of Rs.991.50 has been received by the applicant. The respondents have further brought in Para 13 that the applicant was not called for screening vide their letter dated 19.7.1993 as in that serving MRCL were called for screening and since the applicant was discharged on 19.7.1985, he was not covered by the letter dated 19.7.1993. The letter dated 19.7.1993 is placed by the applicant as Annexure-'A-5'.



5. Learned counsel for the respondents has argued that since the applicant was discharged after following the rules, he has no case and has been paid compensation, he has no right for being considered in terms of the letter dated 19.7.1993 as that letter envisaged that only those persons who were on roll on 19.7.1993 and were engaged before 1980 were required to be screened. Since the applicant was not on roll on 19.7.1993 and had been discharged from service after giving notice and paying compensation, the applicant had no legal claim for being screened.

6. Learned counsel for the respondents has further argued that the orders of the Hon'ble Tribunal in OA.NO.400/90 in the case of P.K.Waykole & Ors. vs. Union of India & Ors. were in the facts and circumstances of that case and were limited for the purpose of giving relief to the applicant in that OA. The learned counsel has further argued that the relief in that OA. was granted on the basis of concession granted by the respondent administration on the specific query raised by the Tribunal as has been brought out in their judgement. Therefore, according to the learned counsel for the respondents the decision in OA.NO.400/90 cannot be applied in the present case. The learned counsel further argued that since there is no legal right vested in the applicant for being considered for screening in terms of the Circular issued by the department, the application is without merit and the respondent administration has rightly rejected the claim of the applicant vide their letter dated 29.6.1995 Annex. 'A-1'



7. After hearing both the counsels and perusing the record, I am of the view that the decision rendered by the Tribunal in OA.NO. 400 /90 cannot be applied in the facts and circumstances of the present case. Since the applicant has been discharged from service after following the rules in 1985, he cannot be treated as fulfilling the conditions which are required for being screened in terms of letter dated 19.7.1993 which is placed at Annexure-'A-5'.

8. I, therefore, see no merit in this OA. and the same is dismissed with no orders as to costs.



(P.P. SRIVASTAVA)
MEMBER (A)

mrj.