

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 236 of 2001.

Dated this Thursday, the 18th day of April, 2002.

Gangadhar Baburao, Applicant.

Shri K. R. Yelwe, Advocate for the
Applicant.

VERSUS

Union of India & Others, Respondents.

Shri R. R. Shetty, Advocate for the
Respondents.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

- (i) To be referred to the Reporter or not ? ☒
- (ii) Whether it needs to be circulated to other ☒
Benches of the Tribunal ?
- (iii) Library. ☒


(B. N. BAHADUR)
MEMBER (A)

OS*

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ORIGINAL APPLICATION NO.: 236 of 2001.

Dated this Thursday, the 18th day of April, 2002.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

Gangadhar Baburao,
MRCL, in the O/o. the
Permanent Way Inspector,
Shegaon,
Divisional Railway Manager,
Engineering Branch, Bhusawal.
Residing at - Katarwadi,
Post Wadgaon, Tal. Chandiwad,
Dist. Nashik.

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Applicant.

(By Advocate Shri K. R. Yelwe)

VERSUS

1. Union of India through
The Secretary to the
Government of India,
Ministry of Railway,
(Railway Board),
Rail Bhavan,
New Delhi - 110 001.
2. The General Manager,
Central Railway,
HQ, C.S.T., Mumbai 400 001.
3. The Divisional Railway Manager,
Central Railway,
Bhusawal.

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Respondents.

(By Advocate Shri R. R. Shetty)

O R D E R (ORAL)

PER : Shri B. N. Bahadur, Member (A).

The Applicant in this O.A. comes up to the Tribunal seeking the relief that Respondents be directed to consider him as being continually employed between the period 21.02.1994 to 29.10.1997, and grant him consequential monetary benefits, continuity in service, etc. The relevant facts of the case are that the Applicant who was a Gangman on M.R.C.L. basis, met

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unfortunately with an accident on 02.01.1993. As a result of this, he was hospitalised for the period between 01.01.1993 to 03.11.1993. In the medical examination following this treatment, he was declared fit in "Aye III" category and was also declared fit for a sedantry job. It is also an admitted fact that he resumed duty on the next day after such certification, (04.11.1993) and continued to work at Bhusawal till 21.02.1994, when he again went for another medical test where a similar medical categorisation was given. It is the grievance of the Applicant that thereafter, he has not been allowed to join duty and he remained off duty till 21.01.1999 when he was appointed afresh as a Watchman. The Learned Counsel has depended upon the contents of Chapter 13 of I.R.E.M. Vol.II especially paras 1301 to 1306. He thus comes up seeking the relief as stated above.

2. In the reply statement filed by Respondents, it is stated that the Railway Administration did not have alternate employment for him after 21.02.1994 due to non-availability of vacancy in Aye-III in sedantry category. It is stated that the Applicant has incurred 91% partial disability; he has however been ultimately employed as Watchman on regular basis from 21.01.1999 on sympathetic grounds. Further details of the case are provided in the Written Statement, where an attempt is made to meet, parawise, the averments in O.A.

3. I have heard the Learned Counsel on both sides and perused all papers in the case. The relevant provisions which

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will guide us in the matter are indeed as contained in Chapter 13 of I.R.E.M. I have carefully perused these provisions with the assistance from both Learned Counsel. The case of the Applicant falls in the category contained in sub-clause (i) of para 1302. For persons in this category the provisions are different to the persons of category covered in sub-para (ii). Nevertheless, para 1305 exhorts the Railway Administration to find employment in the case of permanent and temporary Railway Service. Here also, as pointed out by Learned Counsel, Shri R. K. Shetty, it must be remembered that the Applicant was in M.R.C.L. Group. This is an admitted position.

4. It is further stated on behalf of Respondents that attempts were indeed made even though no rights accrue as such and, finally, only on the basis of humanitarian grounds a Watchmans post on regular basis has been provided. Learned Counsel, Shri Yelwe, who appeared for Applicant, however, made a point that no attempts were made to provide a post, as exhorted in para 1305 and 1306. On the one hand, I do note that the Applicant was working on monthly basis. Even otherwise, it cannot be stated that no efforts were made, especially in the background of the fact that ultimately, be it after five years, the Applicant was indeed provided a job and that too on regular basis. I had in fact asked the Learned Counsel for Applicant whether any provision exists by way of which a right for considering the period in between as duty or discontinued service, even on notional basis, would be available. No such provision is convincingly cited. I have gone through the provisions of

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I.R.E.M. in Chapter 13 and I am not convinced that such a right accrues. On the other hand, the Learned Counsel for Respondents, Shri R. R. Shetty, took me to para 30 of the Paper Book which contains a copy of the Railway Board's letter dated 17.09.1990. The subject of provision of alternate employment to medically decategorised Casual Labour has been discussed there. The subject heading of the letter reads as under :

"Sub:- Medical Decategorisation of casual labour
due to injury on duty - provision of
alternative appointment - regarding."

5. I have carefully gone through the contents of this letter and find that the issue is indeed clarified and no rights accrue to the applicant. Learned Counsel for the Respondents also drew my attention to Railway Board's master circular of 30.06.1992 (page no. 30) where the Railway Board's circular dated 07.05.1983 has been reproduced at para 12. Here it is stated that seniority will accrue only from the date of regularisation even in normal course. On this basis also, the relief sought by the Applicant cannot be granted.

6. In view of the position of rules obtaining viz-a-viz the facts in the case, I am unable to provide the relief as sought by the Applicant. The O.A. is, therefore, dismissed with no order as to costs.

B. N. Bahadur

(B.N. BAHADUR).
MEMBER (A).

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Order/Judgement despatched
to Applicant/Respondent (s)
on 24/4/92

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