

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 327/90
TAXON

198

DATE OF DECISION 7.10.1991A. Shanmugham

Petitioner

Mr. L.M. Nerlekar

Advocate for the Petitioner(s)

Versus

Divisional Rly. Manager, CR, BY VT RespondentMr. J.G. Sawant

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?

MOIPRRND-12 CAT/86-3-12-86-15,000


 (U.C. Srivastava)
 V/C

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

* * * * *

Original Application No. 327/90

A. Shanmugham,
R/o Room No.19, 1st Floor,
Laxmi Bldg, 11th Lane,
Khethwadi, Bombay 400 004.

... Applicant

V/s

1. Divisional Railway Manager (P),
Traction, Central Railway,
Bombay V.T.

2. Ly. CEE (TE/C), C.Rly.,
Bombay V.T.

... Respondents

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

Appearances:

Mr. L.M.Nerlekar, Advocate
for the applicant and
Mr. J.G.Sawant, Advocate
for the respondents.

ORAL JUDGEMENT:

Dated : 7.10.1991

(Per. U.C.Srivastava, Vice-Chairman)

The applicant was appointed as Casual Labourer on 16.4.1979 under TFOE (C) Kurla in Class-IV Category. He was promoted on 19.9.1982 as Casual Linesman and since then he has been working as such till 4.2.1988. According to the applicant he was appointed as Linesman after the trade test which was held on 24.9.1987 and his posting as Linesman was regularised and there was no need for subsequent screening for the post of Linesman as he has already undergone screening and was found suitable. His promotion as Linesman was regularised on 19.9.1982 on passing the trade test and he was thus wrongly called for screening on 12.7.1988 for the post of Skilled Artisan. It was thereafter that he was reverted as Khalasi on 11.3.1988 which according to ~~him~~ the applicant was done illegally. Again vide

letter dated 21.12.1989 employees were called for decasualisation i.e. screening of skilled Casual Labour Artisan but the applicant's name did not find a place in the list and that is why he has approached the Tribunal praying that he may be regularised on the said post on which he in fact was regularised. He has prayed that the respondents may be directed not to implement the panel formed pursuant to the screening vide letter dated 19.3.1990 till the applicant is promoted and posted as Linesman in Class III category. The reversion order has also been challenged by him as void and non-est. The respondents have pleaded that the applicant was specifically asked about his willingness to be absorbed in the regular post of Khalasi and he gave in writing about his willingness while according to the applicant which was nothing but under coercion he has given in writing. The respondents have further contended that the applicant has been absorbed in the post of Khalasi in the lower pay he is not entitled to be absorbed on the higher scale of the Artisan. May be because the applicant has been absorbed on the lower scale which an employee will accept in order to get security in service that alone will not be a reason for depriving a person from being regularised against a higher post on which he has already worked for at least five years. Some times it may result in injustice as those who were not regularised along with the applicant in Class IV and continued to work they may be regularised although in the service hierarchy they were junior to the applicant. Accordingly even if we accept the applicant's contention that he was regularised as Linesman the applicant cannot be deprived from consideration of being regularised on a higher scale

W

and he cannot be deprived of the scale merely because he was regularised on a lower scale and accordingly the respondents are directed to consider the case of the applicant also for regularisation on the higher scale in respect of which panel was prepared in the year 1990 against which the relief has been prayed in case he is eligible for the same and he is found fit. In case a fresh screening test takes place little later there is no bar on the respondents to consider the applicant in a supplementary selection. There is no order as to costs.



(M.Y. Priolkar)
Member (A)



(U.C. Srivastava)
Vice-Chairman

v/-