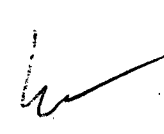


IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**NEW BOMBAY BENCH****O.A. No. 113/91**~~XXXXXX~~

198

DATE OF DECISION 7.6.1991Mr. N.S.Sathaye**Petitioner,**Mr. A.P.Gupte**Advocate for the Petitioner(s)****Versus**Union of India & Ors.**Respondent**Mr. A.I.Bhatkar**Advocate for the Respondent(s)****CORAM****The Hon'ble Mr. 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)
V/C

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

Original Application No. 113/91

Milkanth Shridhar Sathaye,
B/O2, Geetanjali, Sector 17,
Plot No.52, Vashi,
New Bombay 400 073

... Applicant

V/s.

Union of India & Others.

... Respondents.

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

Appearances:

Mr. A.P. Gupte, Advocate
for the applicant and Mr.
A.I.Bhatkar, holding the
brief of Mr. M.I. Sethna,
Counsel for the respondents.

ORAL JUDGEMENT:

Dated: 7.6.1991

¶ Per U.C. Srivastava, Vice Chairman¶


We have heard counsel for the parties.

Mr. Bhatkar appearing on behalf of the respondents
stated that he has been instructed to state that the
Department is prepared to employ the applicant as
Telephone Operator in the grade of Rs. 950 - 1500
as no other post is available. The applicant who
served the Bhabha Atomic Research Centre for about
30 years had a good career since he joined service
in the year 1956 in the Chemistry Division and he
was after promotion working as Glass Blower. He
was also given outstanding awards for his good work.
While working in the Department he lost his left
eye in the year 1969 and he was given a change in
the work. Subsequently while doing the said job
he lost his both eyes. The applicant was declared

(8)

medically unfit. The applicant was given a memo on 2.5.90 informing that he is retired from service on medical ground with effect from 2.5.1990 and this was done although his representation for job was pending. Ultimately, after failing to get any relief from the Department the applicant approached the Tribunal. A number of orders have been passed in this case and ultimately on 26.4.91 a direction as mentioned above was given in pursuance of which the statement has been made by the learned counsel. Taking into consideration the totality of the circumstances including the fact that the applicant will be loser the respondents are directed to appoint the applicant as Telephone Operator within a period of one week paying him the maximum salary i.e. Rs. 1500/- and all the other allowances. This salary and allowances will be paid with effect from the date he was retired i.e. from 2.5.90. The applicant shall be deemed to be in continuous service without there being any break in it. The continuous period will be counted towards pensionary and other benefits. In case he is entitled to additional pension for working upto the date of superannuation that will be also added to the pension to which he was entitled on 2.5.90. As far as the pension is concerned in no circumstances he will be paid less pension than what he was entitled on 2.5.90. Something more can be added in it for working upto the date of superannuation but it shall not be reduced. In passing this order we have taken into consideration the delay caused by the respondents who were bound to

consider the prayer and representation made by the applicant for alternate job or were to make this offer to him themselves. In view of the fact that the applicant has to run to this Tribunal and has to spend the amount and the fact that he is not being paid the emoluments he was getting, the respondents are directed to pay the applicant the sum of Rs. 3000/- as costs.


(M.Y. PRIOLKAR)
MEMBER (A)


(U.C. SRIVASTAVA.)
VICE CHAIRMAN

(12)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

C.P.53/91 and MP 893/91
in O.A.113/91

Shri Nilkanth Shridhar Sathaye,
B/O2, Geetanjali, Sector 17,
Plot No.52, Vashi,
New Bombay 400 073.

... Applicant

vs.

1. Union of India
through
The Secretary,
Department of Atomic Energy,
New Delhi.
2. Govt. of India
through
Secretary to the
Govt. of India,
Department of Atomic Energy,
C.S.I. Marg,
Bombay - 400 089.
3. Head of Chemistry Division,
Bhabha Atomic Research Centre,
Trombay,
Bombay - 400 085.

.. Respondents

Coram: Hon'ble Shri D.K.Agrawal, Member(J)

Hon'ble Shri M.M.Singh, Member(A)

Appearances:

1. Applicant in person
2. Mr.M.I.Sethna
Sr.Standing Counsel
for the respondents.

TRIBUNAL'S ORDER:

Date: 15-11-1991

(Per D.K.Agrawal, Member(J))

Heard the applicant in person and
Mr.M.I.Sethna, Sr.Standing Counsel for the respondents.

2. The facts are very simple. The applicant while ~~working~~ posted as Scientific Officer was retired on the ground that he had become incapable to discharge his duties as a result of natural calamity. The applicant has lost his eyesight. Therefore he had to be retired. In O.A.113/91 a Bench of this Tribunal gave a direction that the applicant will be employed as Telephone Operator in continuity of his service with effect from 2-5-1990 without any loss of pay or emoluments

D.K.Agrawal..2/-

and made to work till the age of superannuation provided for the post of Scientific Officer i.e. 60 years. The department is ready to employ the applicant. They have only expressed one difficulty. They stated that the superannuation ^{age} for the post of Telephone Operator is 58 years. The applicant is already past 58 years of age. Therefore they proposed to employ him and comply with the judgment of the Tribunal on another post i.e. Tradesman. We are of the opinion that the designation of the post is immaterial in this case. It is a factum [✓] ~~vallet~~ that the applicant is not in physical position to render any service to the department. Therefore the appointment proposed to be offered to him is more or less ^{for} ~~gratuitous~~ gratuitous work. It is also important that the department does not want to deviate at all from the undertaking given by it to the Bench either ~~to~~ not to pay the same emoluments which he was drawing at the time of retirement i.e. 2-5-90 or not to grant him continuity in service etc. etc.

3. Shri M.I. Sethna, Sr. Standing Counsel appearing on behalf of the department has also undertaken not to re-employ the applicant but to give him an appointment in any capacity irrespective of the designation of the post but carrying the maximum pay of Rs.1500/- which he would have been drawn if he would have been appointed as Telephone Operator as directed by the Tribunal. The applicant is also agreeable ~~with the~~ and stated that the department may be permitted to carry out the order of the Tribunal accordingly.

Dr. Aswani