

(2)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 430/91

Shri M.G. Solanki

... Applicant.

V/s

Union of India & ors.

... Respondents.

Coram : Hon'ble Member(A) Shri M.Y.Priolkar
Hon'ble Member (J) Shri T.C. Reddy.

Appearances:

Applicant by Shri D.V.Gangal.

Oral Judgment:-

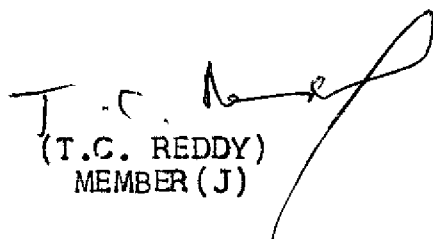
[Per Shri M.Y.Priolkar, Member (A)] Dated: 6.8.1991

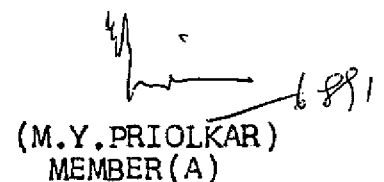
The applicant states that he was working as a Safaiwala for almost 14 years from 1.3.1963 and was removed from service for unauthorised absence on 12.5.1977. According to him he was removed from service for unauthorised absence. Various representations for reinstatement are stated to have been made by him, but without any success. Then he filed O.A. 753/87 before this Tribunal which was summarily rejected on 13.12.1987. He preferred an S.L.P. in Supreme Court which was also dismissed. However, the Supreme Court in its order dated 15.11.1989, while dismissing the S.L.P., also expressed the hope that the Government will be able to give him a fresh appointment to some suitable post. In the meanwhile he was appointed by order dated 27.6.1989 of the Divisional Railway Manager as a fresh appointee with the specific condition that under no circumstances, condonation in break of service shall be allowed.

2. In the present application the applicant's grievance is that there is a break in his service. But under Chapter 13 of the IREM there is a provision for condonation of break in service. The applicant states that he has already submitted a representation through proper channel to the General Manager, Western Railway dt. 6.2.1991 for condoning the break in service due to unauthorised absence and his service should be treated as continuous for the purpose of pensionary benefits. His prayer in this application is for a declaration by the Tribunal that the applicant's case for condonation of break in service deserves to be granted.

(3)

3. Admittedly, powers given to the competent authorities for condoning break in service are entirely discretionary although the learned counsel for the applicant stated that even in case of certain illegal strikes the breaks in service have been condoned and, therefore, it will be discriminatory if such condonation is not allowed in the case of the present applicant. We cannot accept this contention. The applicant is not in the same category of illegal strikers and even the Supreme Court while dismissing his SLP had not given any direction that his previous service should be treated as continuous or be counted for pensionary benefits. Whether to allow condonation of break in service or not is entirely within the domain of administrative discretion and we do not think that this is a fit case for interference by this Tribunal. Accordingly the application is rejected. However, we would like to give a direction to the General Manager that the representation stated to have been made by the applicant on 6.2.1991^{if it} has been received and is pending with him, he may dispose it of within a period of 2 months from the date of receipt of a copy of this order. With this direction this application is summarily rejected. No order as to costs.


(T.C. REDDY)
MEMBER (J)


(M.Y. PRIOLKAR)
MEMBER (A)

(S)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

C.P.No.13/93
in
O.A.No.430/91

M.G.Solanki,
Safaiwala,
Western Railway.

.. Applicant

-versus-

P.V.Vaitiswaran,
General Manager,
Churchgate,
Bombay.

.. Respondent

Coram: Hon'ble Shri Justice M.S.Deshpande,
Vice-Chairman.

Hon'ble Shri M.Y.Priolkar, Member(A)

Appearances:

1. Mr.D.V.Gangal
Advocate for the
Applicant.
2. Mr.N.K.Srinivasan
Counsel for the
Respondent.

TRIBUNAL'S ORDER:


Date: 12-7-1993

Mr.D.V.Gangal advocate for the applicant
and Mr.N.K.Srinivasan for the respondent.

2. Since the respondents' contention is
that the copy of the representation dt. 6-2-91
had not ^{been} received, Shri Gangal hands over a copy
of the representation to the respondents and
points out us that there is an acknowledgment
in the representation on behalf of the respondent.

3. In these circumstances we direct the
respondents to carry out the directions given
in the judgment dt. 6-8-91 within two months from
today.

4. C.P.disposed of.


(M.Y.PRIOLKAR)
M(A)


(M.S.DESHPANDE)
VC