

21

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 92/91

Transfer Application No.

Date of Decision 29.10.1997

R.B.Patil & Ors.

Petitioner/s

Shri D.V.Gangal

Advocate for
the Petitioners

Versus

Union of India & Ors.

Respondent/s

Shri S.C.Dhawan

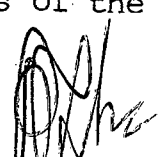
Advocate for
the Respondents


CORAM :

Hon'ble Shri. Justice R.G.Vaidyanatha, Vice Chairman

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

- (1) To be referred to the Reporter or not ? ~~~
- (2) Whether it needs to be circulated to other Benches of the Tribunal ? ~~~


(P.P.SRIVASTAVA)
MEMBER (A)


(R.G.VIADYANATHA)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

22

OA.NO. 92/91

Wednesday this the 29th day of October, 1997

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble Shri P.P.Srivastava, Member (A)

1. Rajendra Baburao Patil
2. Sanjay Ganpati Pawar
3. Vilas Vishwanath Mane

All residents of Vashi working as
Concrete Supervisor under Executive
Engineer, Metropolitan Transport Project
(Railways), Bombay.

C/o Shri D.V.Gangal, Advocate,
M-3, Sector-9, C.B.D New Bombay.

By Advocate Shri D.V.Gangal

... Applicants

V/S.

1. Union of India through
The General Manager,
Central Railway, Bombay.
2. The Chief Engineer(Construction),
Central Railway, Bombay V.T.
3. The Executive Engineer (HQ),
Metropolitan Transport Project
(Railways) Churchgate, Bombay.
4. The Executive Engineer (Bridges)
Office of the Executive Engineer
(Bridges) Mankhurd, Bombay.
5. The Divisional Railway Manager,
Central Railway, Bombay V.T.

By Advocate Shri S.C.Dhawan

... Respondents

.. 2/-



23

O R D E R

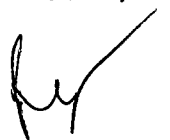
(Per: Shri Justice R.G.Vaidyanatha, VC)

This is an application filed by the three applicants challenging the order of termination dated 26.2.1991 and for regularisation of their services in the Railway administration. By an interim order the second applicant was allowed to be continued to work in the Railway administration. As far as Applicants No. 1 & 3 are concerned, the Railway administration accommodated them in Konkan Railway Project.

2. Now, when the matter was taken up for final hearing today, the learned counsel for the respondents brought to our notice that second applicant remained absent unauthorisedly for a long time and hence disciplinary action has been initiated and order has been passed on 21.10.1997 under which second applicant has been ordered to be removed from service.

3. The learned counsel for the respondents, therefore, submits that in view of the subsequent development the present application filed by the second applicant is not maintainable and as far as applicants No. 1 & 3 are concerned, the application is not maintainable since they have already been accommodated in Konkan Railway Project.

.. 3/-

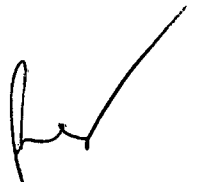


(24)

4. The learned counsel for the applicant also concedes that Applicants No. 1 & 3 have been working in Konkan Railway Project. As far as second applicant is concerned, he submits that he is not aware of the impugned order passed by the Railway administration but in case such an order has been passed, the second applicant will have to take necessary legal steps to challenge that order.

5. After hearing both the sides, we are of the view that the present application is not maintainable in view of the subsequent developments brought to our notice. As far as Applicants No. 1 & 3 are concerned, their application is not maintainable since they have been accommodated in Konkan Railway Project. As far as second applicant's prayer for setting aside the order of termination dated 26.2.1991 and for regularisation does not survive since he has been subsequently removed from service by order dated 21.10.1997. Till that order is set aside, the second applicant cannot claim any right of service in the Railway administration. Therefore, as on today, the application on behalf of 2nd applicant is not maintainable in view of the subsequent development brought to our notice.

.. 4/-

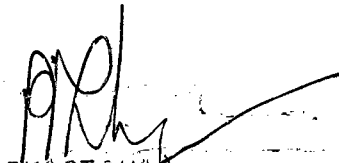


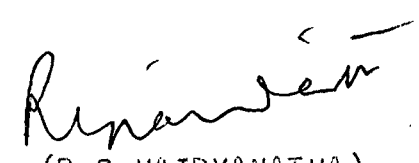
25

6. We are conscious of the fact that the second applicant has a legal remedy to challenge the recent order dated 21.10.1997 according to law.

If in case he succeeds in getting set aside that order ^{is} and re-instated, then no doubt he is entitled to reagitate ~~that~~ the original order dated 26.2.1991 is liable to be cancelled etc. We feel that the right of second applicant to challenge the order dated 26.2.1991 and the prayer for regularisation should be left open and liberty should be given to him to reagitate the matter by approaching this Tribunal or in other competent forum within three months of reinstatement in case he succeeds in recent order dated 21.10.1997 being set aside in accordance with law. We are making it clear that we are passing this order not on merits but in view of the subsequent development brought to our notice by the respondents.

7. In the result, the OA. is disposed of subject to the observations made above. No costs.

40

(P.P. SRIVASTAVA)
MEMBER (A)


(R.G. VAIDYANATHA)
VICE CHAIRMAN

mrj.