

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 899/92

199

~~Ex. No.~~

DATE OF DECISION 16.10.92

Shri Krishna Murari Tripathi Petitioner

Shri Y.R.Singh Advocate for the Petitioners

Versus

Union of India and others Respondent

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Shri V.G.Rege, BOMBAY BENCH Advocate for the Respondent(s)

~~Ex. No.~~

T.A. NO:

CORAM:

DATE OF DECISION

The Hon'ble Mr. Justice S.K. Dhaon, 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 ?

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Sy
(S.K. DHAON)
VICE CHAIRMAN

mbm*

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 899/92

Shri Krishna Murari Tripathi ... Applicant

V/s.

Union of India through
General Manager,
Central Railway
BombayVT.

Chief Personnel Officer,
Central Railway
Bombay VT.

... Respondents.

CORAM: Hon'ble Shri Justice S.K. Dhaon, Vice Chairman
Hon'ble Shri M.Y.Friolkar, Member (A)

Appearance:

Shri Y.R. Singh, counsel
for the applicant.

Shri V.G.Rege, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 16.10.92

¶ Per Shri S.K.Dhaon, Vice Chairman ¶

On or before 26.5.84, the applicant was employed as a Rakshak in the office of the Chief Security Officer, Bombay VT. On that day, the Sr. Personnel Officer Central Railway Bombay V.T. passed an order that the applicant would be absorbed as Typist in his office in the pay scale of Rs. 260 - 400. However, he made it clear that the appointment of the applicant was purely adhoc and temporary and on appointment of a suitable candidate by the Railway Service Commission, the applicant will be sent back to his parent department. On 8.4.92 the Chief Personnel Officer sent a communication to the parent department of the applicant that in view of the fact that a suitable typist has been appointed in the Hindi section, the applicant was being sent back to his parent department for further posting. This communication was followed by a communication dated 24.4.92. In this it, it was reiterated that the applicant, who was working on adhoc basis as Hindi Typist, was being re-directed for

further posting as he was holding a lien in the parent department. On 8.5.92 Chief Security Commissioner sent a communication to the CPO/BBVT of Central Railway, a true copy of which has been filed as annexure I of the application. The substance of this communication is that the respondents were requested to re-examine the case of the applicant. The applicant has come to this Tribunal with the grievance that neither the respondents nor the office of the Chief Security Commissioner, R.P.F. are prepared to give him an employment and pay him accordingly.

A reply has been filed on behalf of respondents. Shri Rege has been heard in opposition of this application. We may revert to the communication dated 8.5.92 of the Chief Security Commissioner. Before doing so we may take note of the fact that on 19.12.90, the respondents had recruited some one as a Hindi typist in place of the applicant on the recommendation of the Railway Service Commission. In the communication of 8.5.92, a definite query was put by the Chief Security Commissioner to the respondents as to why the fact that some one else had been appointed in place of the applicant as Hindi typist from 20.12.90 had not been communicated to him (the Chief Security Commissioner) till 1992, namely either till 8.4.92 or 24.4.92.


We also enquired from Shri Rege as to what explanation has the respondents to offer for having kept silent for more than two years, in not giving the necessary information to the parent department of the applicant. Their explanation offered is that, since the applicant was on sick leave, information was sent only when he returned from leave. Shri Rege however very fairly conceded that inspite of the appointment of some one else in place of the applicant with effect

from 20.12.90, the respondents will be liable to pay to the applicant his salary etc from 20.12.90 till 24.4.92. This shows that it does not lie in the respondents to contend ^{that the} legal right, ~~if any~~, of the applicant to work as ^a Hindit typist in the respondents office came to an end on 20.12.90.

Legal ^{quibbles} ~~queries~~ apart, we have to do substantiate justice in the matter. The applicant has to be given an employment either by respondents or by his parent department. It appears that the parent department is reluctant to take him back. This stand of the parent department is probably the direct result of the inaction ~~on~~ the part of the respondents in ^{not} giving timely information to that department that the applicant was available to that department with effect from 20.12.90. Be that as it may, it is now the responsibility of the respondents to either absorb the applicant or to persuade the parent department of the applicant to take him back. So long as the applicant is not taken back by the parent department, the applicant would be entitled to render service to the respondents and the respondents would be under a corresponding obligation, to pay the usual emoluments to the applicant. We are informed at the ~~bar~~ by the counsel for the applicant that the respondents have permitted the applicant to resume duty in pursuance of the interim order passed by us on 25.9.92. Respondents shall not interfere with the working of the applicant with them till the parent department of the applicant agrees to accept and permit him to join there.

With these directions, this application is disposed off finally, but without any order as to costs.


(M.Y. PRIOLKAR)
MEMBER(A)


(S.K. DHAIN)
VICE CHAIRMAN