

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH.

Original Application No. 1161/92

~~Transfer Application No.~~

Date of decision 23.6.93

Shri Manoj Bhojaraj Tone Petitioner

Shri S.C. Halli Advocate for the Petitioner

Versus

Union of India and others Respondent

Shri S.C. Dhwan. Advocate for the Respondent(s)

Coram :

The Hon'ble Shri A.B.GORTHI, Member(A)

The Hon'ble Shri

1. Whether the 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 ?


(A.B.GORTHI)
MEMBER(A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 1161/92

Shri Manoj Bhojaraj Tone

... Applicant.

V/s

Union of India through
The Secretary,
Ministry of Railway,
Rail Bhawan, New Delhi.

General Manager
Central Railway
Bombay V.T.

Divisional Railway Manager,
Central Railway,
Solapur Division,
Solapur.

... Respondents.

CORAM: Hon'ble Shri A.B. GORTHI, Member (A)

Appearance:

Shri S.C. Halli, counsel
for the applicant.

Shri S.C. Dhawan, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 23.6.93

[Per Shri A.B. Gorthi, Member (A)]

This is an application for appointment on compassionate ground. The applicant's father served in the Central Railway for a period of over 30 years. When he was working as T.T.E. he was declared as medically unfit for all category ^{of} service on 24.3.88 by the Medical Board. On the medically invalidation of the father, the applicant approached the concerned authority for appointment on compassionate ground. Vide communication dated 30.6.88 the applicant was called to appear for written/oral test on 4.7.88. Although the applicant attended the said test, the respondents did not ^{grant} ~~marked~~ his request of appointment on compassionate ground. The Divisional Railway Manager, Solapur vide letter dated 8.1.90 informed the applicant that his request for appointment on compassionate ground was considered and rejected.

The respondents, in their reply, did not dispute the essential facts averred in the application, but clarified that the applicant's father did not have a very satisfactory record of service. During his 30 years of service, he had only 18 years of qualifying service because he was absent for long spells and was also under suspension for about three months on account of a vigilance case. The case resulted in the award of penalty of with-holding of increment for two years without postponement of future increments. Keeping in view the unsatisfactory record of service of the employee and also the other circumstances of the case, the respondents considered that the applicant's case is not a fit one for appointment on compassionate ground.

In the reply affidavit it appears that the respondents were rather prejudiced, in the matter of compassionate appointment to the applicant, on account of unsatisfactory service rendered by the applicant's father. It is however to be noted that the only punishment that was awarded to the applicant's father was "With-holding of increments for a period of two years" which is not a severe penalty at all. In any case, for appointment on compassionate ground what is more important and relevant is the financial circumstance of the family. If the family is in such a financial distress as would warrant immediate help then appointment on compassionate ground ought not to be denied, merely on the ground that the applicant's father was awarded a minor penalty during his service.

Learned counsel for the respondents has drawn our attention to Railway Board's letter dated 28.2.86 (copy annexed as exhibit 1 to the reply affidavit).

The said letter, interalia, states that the competent authority, if so desires, may call for and take into account the past record of the employee (including his vigilance record). In my view the said requirement should be given secondary consideration, whereas, the first consideration is the financial status of the applicant and the family. The Railway Board's letter ibid further clarifies that the appointment of wards of employees who are over 55 years old will only be considered as a special case and not as a matter of course and that such appointment should be approved personally by the General Manager.

It is not very clear whether proper scrutiny of the financial status of the applicant and his family has been carried out by the respondents. The letter dated 8.1.90 rejecting the request of the applicant for appointment on compassionate ground does not indicate, much less specify, any reason for which the request was turned down.

In the abovesaid circumstances, the application deserves to be allowed. Accordingly respondent No.1, the General Manager, Central Railway, is directed to examine the case of the applicant afresh taking into consideration the financial status of the applicant and his family and come to a definite conclusion whether the applicant deserves appointment on compassionate ground. His decision in the matter will be communicated to the applicant by means of a reasoned order within a period of three months from the date of communication of this judgement.

Application is disposed of with the above directions with no order as to costs.


(A.B. GORTHI)
MEMBER (A)

C.P. No-11/94 for
for order on 21-1-94

As per
18/1

Per Tribunal

Date:

Applicant in person / by
Advocate / Respondent by
Council.

The matter adjourned to
for

Dy. Registrar

Per Tribunal

Date: 21-1-94

Applicant in person / by None
Advocate / Respondent by None

Council. Due to disturbance on a/c of
mechanical Bandh
The matter adjourned to 28-1-94
for orders CP

Dy. Registrar

Dated 28-1-94

Shri S.C. Halli for
the applicant, Shri S.C.
Dhawan for the respondent.

Adjourned to 3/3/94.

M.R. Kolhatkar
(M.R. Kolhatkar)

M/A.

Dated 3/3/94

Shri S.C. Halli for the
Contempt Petitioner.

Issue notice to the alleged
contemner returnable on 8-4-94.
Return on 8-4-94.

M.R. Kolhatkar
(Smt. Lakshmi Swaminathan) (M.R. Kolhatkar)
M/A.

Notice sent to
the applicant &
Respondent on 18/1/94
per 22/3

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Date: 8.4.1994:

Applicant by Shri S C Halli. Shri S.C. Dhawan counsel for the respondents.

No reply has been filed, but Shri Dhawan states that the order dated 20th September 1993 has been passed by the General Manager in compliance of the order passed by the Tribunal. We find that the directions were to have a fresh look into the applicant's financial status and that of his family and then reach a definite conclusion whether the applicant deserves appointment on compassionate ground, by passing a reasoned order as directed by the Tribunal. The order passed by the GM does not give any reasons for the view taken.

Since the applicant has to approach the Tribunal afresh for the relief we direct the respondents to pay Rs.200 as costs to the applicant for the hardship caused to him.

A fresh reasoned order shall be passed within two months from the date of communication of this order.

C.P. No. 11/94 is disposed with the above directions.

Rey
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M.R.Kolhatkar
(M.R.Kolhatkar)
Member(A)

M.S.Deshpande
(M.S.Deshpande)
Vice Chairman

order/Judgement despatched
to Applicant/Respondent (s)
on 8/4/94

21/4/94

Notice dtd 15.3.94
issued to Lantemner
No. 2 recd. back
in service under postal
remark "Retired"

MD