

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 58/92 199

~~To A.O. NO:~~

DATE OF DECISION 1.9.92

B S Bangale

Petitioner

Mr. R. Ranganathan

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Mr. J G Sawant

Advocate for the Respondent(s)

CORAM:

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 ?
- ND

Sly
V.C.

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(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, "GULESTAN" BUILDING NO.6
PRESCOT ROAD; BOMBAY-1

OA No. 58/92

Bhaskar Sandoo Bangale
retired as Khalasi,
Office of the Chief Signal Inspector
(Construction) Bhusawal
R/o. C/o. Laxman Bhaskar Bangale
Hanuman Nagar
Near Dr. Bendale's Hospital
Bhusawal 425201

..Applicant

V/s.

1. Union of India
through the General Manager
Central Railway
Bombay V.T.
2. The Divisional Manager
(Personnel), Central Railway
Bhusawal
3. The Chief Signal Inspector
(Construction) Central Rly.,
Bhusawal

..Respondents

Coram: Hon.Shri Justice S K Dhaon, V.C.
Hon.Shri M Y Priolkar, Member(A)

APPEARANCE:

Mr. R. Ranganathan
Counsel
for the applicant

Mr. J G Sawant
Counsel
for the respondents

ORAL JUDGMENT:
(PER: S K Dhaon, Vice Chairman)

DATED: 1.9.92

The grievance in this application is
that the applicant is not being given the benefit
of the contents of paragraph (2)511(a) as contained
in the Indian Railway Establishment Manual. Hence
this application under section 19 of the Act.

83

A reply has been filed on behalf of the respondents. However, no rejoinder affidavit has been filed. Learned counsel for the parties have been heard for quite some time. The relevant portion of the afore mentioned paragraph (2511(a), as material to the present controversy, may be extracted. It runs:-

"... Casual labour shall be eligible to count only half the period of service rendered by them after attaining temporary status on completion of 120 days continuous employment and before regular absorption his qualifying service for the purpose of pensionary benefits..."

The case of the applicant, as developed before us, is that the applicant was employed as casual labour. He rendered 120 days continuous service and, therefore, immediately after the expiry of 120 days he acquired a temporary status. This, according to the applicant, happened some time in the year 1975. The simple argument, therefore, is that for the purpose of the pensionary benefits 50% of the time spent from the date of acquiring temporary status till the date of regularisation should be taken into account.

In the reply filed, in paragraph 2 it is asserted that with effect from 20.7.1975 the applicant was in continuous employment as casual labour on the projects. This assertion is corroborated

- 9 -

by the document produced by the applicant himself in the form of record of service as casual labour. A photostat copy of the same is to be found on page 18 of the application. This shows that the certificate was issued to the applicant by the Chief Signal Inspector (Construction), Central Railway, Bhusawal. We have already indicated that no rejoinder affidavit has been filed. Therefore, on the basis of the material on the record we have no alternative but to accept the case of the respondents that the applicant completed 120 days continuous service some time in the year 1975 as casual labour project.

Reliance is placed on behalf of the respondents on a judgment of the Supreme Court in writ petition no. 147 and other connected writ petitions (in the case of Indrapal & Ors. V. Union of India & Ors.) decided on 18.4.1985 coupled with a circular of the Railway Board dated 11.9.1986 which demonstrate that the applicant would be deemed to have acquired a temporary status with effect from 1.1.1981. We may also indicate that the afore mentioned paragraph 251(a) is not directly concerned with casual labour projects, it talks of casual labour simpliciter. We are bound by the judgment of the Supreme Court as it is directly on the point.

84

(8)

As a result of the foregoing discussion, we make it clear that for the purpose of pensionary benefits it would be deemed that the applicant acquired temporary status with effect from 1.1.1981. The respondents are directed to compute the pension of the applicant accordingly. The respondents shall calculate the pension payment of the applicant after giving him the benefit of 50% of the period spent with effect from 1.1.1981 till the date of regularisation. They shall do so within a period of four weeks.

There shall be no order as to costs.


(M Y Priolkar)
Member (A)


(S K Dhaon)
Vice Chairman