

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 556/94

Date of Decision: 1.7.1999

Shri V.M. Khatavkar Applicant.

Shri S.N.Pillai. Advocate for
Applicant.

Versus

Union of India and others. Respondent(s)

Shri R.R.Shetty for
Shri R.K. Shetty. Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice S.Venkataraman, Vice Chairman

Hon'ble Shri. S.K. Ghosal, Member(A)

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

(S. Venkataraman)
Vice Chairman

NS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, MUMBAI:1

Original Application No. 556/94

Thursday the 1st day of July 1999

CORAM: Hon'ble Shri Justice S.Venkataraman, Vice Chairman
Hon'ble Shri S.K. Ghosal, Member(A)

V.M. Khatavkar
W.T.M. under
Sr. TCI -II (W)
C.Railway
Kurla.

... Applicant

By Advocate Shri S.N.Pillai

V/s

Union of India through
The General Manager
Central Railway
Bombay V.T.

The Divisional Railway Manager
Bombay Division,
Central Railway
Bombay.

... Respondents

By Advocate Shri R.R.Shetty for Shri R.K. Shetty

ORDER (ORAL)

(Per Shri Justice S.Venkataraman, Vice Chairman)

The applicant had joined the service as Casual Labour Wireless telecom Mechanic (WTM) on or about 19.5.1982. His services were terminated on 1.4.1985. The applicant was challenged the same in O.A. 818/88. That application was partly allowed quashing the order of termination. A direction was given that the applicant should be deemed to have continued in service if sanction for the post had not elapsed. A further direction was given

1.2.14

that if the sanction had elapsed then he should be given priority and preference in the matter of appointment and in case any other appointment has been made in between even then the applicant's claim and right for getting prior appointment will not come to an end. The Tribunal held that the termination was void in view of Section 25(F) of the Industrial Disputes Act.

2. The applicant was appointed again in 1992. His grievance is that his pay is fixed at the minimum of the scale at Rs. 950/- that he has not been given continuous service by allowing increments, which the respondents have done in the case of some other juniors whose services had also been terminated in the same way and whose termination was set aside by the Central Government Industrial Tribunal. He ^{has} is therefore sought for a direction to fix his pay counting his increments due to him during the entire period from the date of ^{his} engagement to re-instatement, to pay him full backwages from 19.4.1985 and give him other consequential benefits.

3. The respondents in their reply have pleaded that the applicant was on Casual Labour and that the sanction of the Divisional Signal and Telecom. Engineer for engagement of Casual Labour expired on 18.4.1985 and the short term leave vacancy also did not exist. They have contended that the present application is barred by limitation and also by res-judicata.

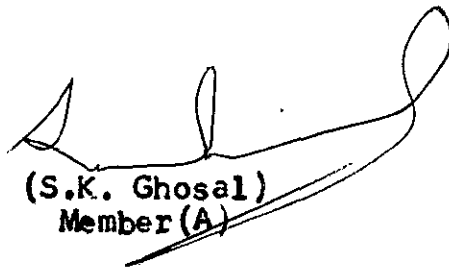
4. It is not in dispute that the applicant was a Casual Labourer who was being paid wages monthly. The Tribunal has stated that he would be entitled to continuity in service if the sanction for the post had not elapsed. The Casual Labourer does not hold any post. The sanction would be only for engagement of Casual Labourer. It is in that light the order of the Tribunal will have to be read. The respondents have re-instated him by ignoring the previous service, as sanction for Casual Labourer is stated to have expired. Even assuming that the applicant could be deemed to have continued as Casual Labourer, the question of giving increment would not arise.

5. The claim for backwages is barred by res-judicata. Even in the earlier application the applicant had claimed backwages but the same has not been allowed by the Tribunal.

6. The learned counsel for the applicant contended that ^{though} three other casual labourers who were junior to the applicant have been re-instated and they have also been given continuity of service and arrears of wages, the applicant has not ^{been} given the same benefit. Those three persons had approached the Central Government Industrial Tribunal and that Tribunal has passed an order holding that they are entitled to re-instatement with full backwages. In compliance with that order the respondents have paid them all the backwages. The applicant on the

other hand approached this forum and this forum has given some relief. He cannot now seek a relief given to other persons by the Central Government Industrial Tribunal. This is not a case where the respondents have on their own given some benefits to persons similiarly situated as the applicant and have refused that benefit to the applicant. In the circumstances we do not find any good reason to give the relief sought by the applicant.

7. For the above reasons the application is dismissed. No costs.



(S.K. Ghosal)
Member (A)



(S. Venkataraman)
Vice Chairman

NS