

4

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 875/94

Transfer Application No:

DATE OF DECISION: 3/1/1995

M. Gopal Petitioner

Shri. G.S. Walia Advocate for the Petitioner

Versus

Union of India & Ors. Respondent

1. Shri.N.K.Srinivasan
2. Shri.Suresh Kumar for Advocate for the Respondent(s)
Shri. M.I. Sethna
3. Shri. V.S. Masurkar

CORAM :

The Hon'ble Shri Justice M.S. Deshpande, V.C

The Hon'ble Shri

1. To be referred to the Reporter or not ? m -

2. Whether it needs to be circulated to other Benches of
the Tribunal ? m


(M.S. Deshpande)
V.C

J*

5

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. 875/94

M. Gopal

.. Applicant

Vs.

Union of India & Ors.

.. Respondents

CORAM :

Hon'ble Shri. Justice M.S. Deshpande, Vice Chairman

APPEARANCES

1. Shri. G.S. Walia, Counsel
for the applicant
2. Shri. N.K. Srinivasan,
Shri. Suresh Kumar for
Shri.M.I.Sethna & Shri.V.S.Masurkar
counsel for respondents

ORAL JUDGMENT

DATED : 03/01/1995

X Per Shri. Justice M.S. Deshpande, V.C X

By this application, the applicant challenges the order dated 29-6-1994 by which the applicant, who was working as Substitute Bungalow Peon, was relieved on transfer to his parent department on Central Railway, Bombay V.T. The applicant's case is that he ^{was} never employed with Central Railway and that his initial appointment was with Western Railway i.e. Respondents No. 1 to 3 and after a period of 120 days, he was granted

temporary status with effect from 28/10/1992, as per the Memorandum dt. 30.11.92 at Ex. 'A2'. By the order dated 31.8.93, the applicant was posted to work as a Hamal under Janitor, Western Railway Churchgate (Ex. 'A3'). The applicant had been working as Hamal since then ~~and~~ until the order passed on 29.6.1994 by which he was purported to be transferred to Central Railway, which was described as his parent department. The applicant therefore challenges the impugned order.

2. Respondents 1 to 3 contended that the applicant was working as Casual Labour Khalasi under SS-Train Lighting, Central Railway, Bombay V.T and was transferred to Western Railway and posted to work as Substitute Bunglow Peon attached to CFTS-II, Churchgate, upon his application dated 12.3.92, at Annexure 'R3'. It was alleged that the applicant suppressed this fact while filing this application and though the applicant was granted temporary status with effect from 28/10/92, his parent department continued to be Central Railway. Certain documents have also been produced with the written statement purporting to show that the applicant had been working with Central Railway. The Central Railway, respondent No. 4 filed reply contending that the applicant was never appointed as a casual labour with Central Railway and he has never been under the employment of Central Rly.

3. The applicant has produced an order dated 30-11-92 passed by Western Railway (Exhibit 'A2') by which the applicant was accorded temporary status with effect from 28/10/92. ^{The} A note, at Exhibit 'A3' shows that the

7

applicant was posted on 30.11.92 as Bungalow Peon and as he was rendered surplus in the Transportation Branch, he was posted to work under Janiter in the same scale and pay with immediate effect and he may be posted as a Hamal. From this document, it is clear that the applicant had been working with Western Railway and was accorded temporary status by the W.Rly. Annexure 'R3' dated 12/3/1992 purports to be the applicant's application addressed to the Chief Operating Superintendent, Western Railway, Church Gate for the post of Bungalow Peon, in which it was mentioned that he worked as a casual Khalasi under I.O.W (Constn.) Central Railway, Lonawala from 21/3/1987 to 19/10/1991 with breaks in service intermittently and was working as a Casual Khalasi under SS(TL) from 19/1/1992 till the date of application. It was contended that no rejoinder has been filed by the applicant ~~against~~ denying the facts mentioned in this application.

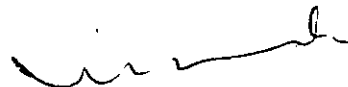
4. Considering the preponderant ^{ent} material on record, it is difficult to accept the position that the applicant ^{was} ~~did~~ not employ ^{ed} with Central Railway. May be he had made certain averments in his application purporting to show that he was in employment with the Central Railway. That, however, would not change the position that he had been working with Western Railway ^{only} and could not have been repatriated.

5. In the result, the impugned order transferring the applicant to Central Railway, dated 29/06/1994

8

-4-

is quashed. Liberty to the respondents to take steps against the applicant, if it was found that the applicant sought employment with the Western Railway on the basis of fabricated documents. No orders as to costs.



(M. S. DESHPANDE)
VICE CHAIRMAN

J*