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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 258/94.

Thursday, this the 24th day of June, 1998.

Coram: Hon'ble Shri Justice K.M.Agarwal, Chairman,
Hon'ble Shri R.K.Ahooja, Member(A).

Balkrishna Balaram Patil,
Post: Chikle,
Tal.Panvel,
Dist.Raigad.
(By Advocate Shri S.S.Pakale)

...Applicant.

Vs.

1. Divisional Railway Manager,
Central Railway,
Bombay V.T.
2. Divisional Engineer,
(Central) DRM Office
Central Railway,
Bombay V.T.
3. Permanent Way Inspector,
Central Railway,
Panvel.
(By Advocate Shri V.S.Masurkar)

...Respondents.

: O R D E R : (ORAL)

(Per Shri R.K.Ahooja, Member(A)

The applicant ^{was} ~~is~~ recruited as a Casual Gangman on 23.7.1980.

Since he possessed a Driving Licence, the R-2 asked him to work as a ^{been} ~~or~~ Driver. He has since then ^{been} ~~been~~ continuously working in that capacity and he was also granted temporary status as a Driver in 1984 and admitted to the pay scale of Rs.950-1500. The applicant states that in 1989 he was confirmed in the post of Junior Gangman which is a Group 'D' post. Since then he states that he made several requests and reminders to regularise him as a Driver, but ^{to} ~~was~~ ^{of} no avail. In the present OA ~~in~~ he seeks a direction to the respondents to appoint him as a Motor Vehicle Driver on a permanent basis and to pay him the scale admissible to that post.

2. The respondents do not deny that the applicant who was a Casual Labour was put to work as a Driver. It is also admitted that he was granted temporary status as a Driver. It is stated that from 1989 he was relieved from the Construction line wherein he was made permanent ^{in Group D.} The respondents also say that they have no sanctioned post of Driver under the Assistant Engineer (Maintenance). A proposal was made

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for creation of Driver's post, but it has not been sanctioned so far. In these circumstances, it is stated that the relief sought for by the applicant cannot be granted.

3. We have heard the counsel for the parties. According, to the learned counsel for the applicant the applicant is still being asked to perform the duty of a Driver. This is not admitted by the respondents. Nevertheless, we find that according to the reply filed by the respondents there are 3 Vehicles with Assistant Engineer (Maintenance), Panvel where the applicant is posted where there is no post of Driver available. There is reason, therefore, to believe that the services of the applicant are still being utilised as a Driver. We also notice that the applicant has been granted temporary status as a Driver since 1984. In view of these facts, we consider that this OA can be disposed of with a direction to the respondents that in case the applicant is being utilised as a Driver when he has also been given temporary status since 1984, he should be allowed to draw the pay of a Driver i.e. 950-1500 for that period which is the minimum scale and permissible under the relevant scheme. The applicant may also be considered for regularising as a Driver as and when the ^a vacancy is available and the respondents to take a decision to fill it. No costs.

R.K.Ahooja
(R.K.AHOOJA)
MEMBER(A)

Jn
(K.M.AGARWAL)
CHAIRMAN

B.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ORG. APPLICATION NO. *Bombay* OF 1994

Shri Balkrishna Balaram Patil ..Applicant
v/s.
Divisional Railway Manager & Ors. ..Respondents.

I N D E X

| Sr.No. | Particulars. | Page No. |
|--------|---|-----------|
| 1. | Application dt 14/2/1994. | 1 to 22 |
| 2. | Ex. 'A' copy of the medical Certificate | 13 |
| 3. | Ex. 'B' copy of the communication along with the order No.10/89 | 14 to 16 |
| 4. | Ex. 'C' copy of the said representation dt 23.3.1989. | 17 |
| 5. | Ex. 'D' copy of the letter | 18 |
| 6. | Ex. 'E' copy of the letter | 19 |
| 7. | Ex. 'F' copy of the covering letter dt 27/11/1992. | 20 to 20A |
| 8. | Ex. 'G' copies of the log book | 21 to 31 |
| 9. | Ex. 'H' copy of the receipt. | 32 |

