

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

(B)

Original Application No: 363/95

Date of Decision: 28.6.1999

P.R.Bishnoi

Applicant.

Shri D.V.Gangal

Advocate for
Applicant.

Versus

Union of India & Ors.

Respondent(s)

Shri S.C.Dhawan

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G.Vaidyanatha, Vice Chairman

Hon'ble Shri. D.S.Bawaja, Member (A)

(1) To be referred to the Reporter or not? *✓*

(2) Whether it needs to be circulated to other Benches of the Tribunal? *✓*

Reported
(R.G.VAIDYANATHA)

VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

DA.NO. 363/95

Monday this the 28th day of June, 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble Shri D.S.Bawaja, Member (A)

Prakash Raghunath Bishnoi,
working as Sub-A.P.M.,
R/o Indra S.Nagar No. 2,
Janta Mitra Mandal, Nehru Road,
Mulund (W), Bombay.

... Applicant

By Advocate Shri D.V.Gangal

V/S.

The Union of India through

1. The General Manager,
Central Railway,
Bombay V.T.

2. The Divisional Railway Manager,
Central Railway,
Bombay V.T.

... Respondents

By Advocate Shri S.C.Dhawan

ORDER (ORAL)

(Per: Shri Justice R.G.Vaidyanatha, VC)

This is an application filed under
Section 19 of the Administrative Tribunals Act.
Respondents have filed reply. We have heard
the parties.

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2. Few facts are necessary for the disposal of the OA. Admittedly the applicant has worked as a Substitute Assistant Point Man from 1.12.1988 to 12.7.1990. He came to be discharged from his duties on the ground that regular candidate is appointed. Though the applicant has claimed number of reliefs in the OA., the relief that is now pressed before us is that the applicant is entitled to regularisation subject to his seniority.

Respondents have also admitted in the pleadings that the applicant had worked as substitute APM during the period mentioned in the OA. They have taken a stand that the applicant was not on the rolls and since there are a large number of monthly rated casual labour who are on rolls and they have been given preference for regularisation. It is their further case that the applicant was called for screening but was not empanelled persuant to the screening. There is also dispute for some earlier period of service mentioned by the applicant in OA.

3. Since there is a delay in filing the OA., the applicant has filed M.P.NO. 285/95 for condonation of delay. Though the relief of challenging termination is barred by limitation, there cannot be any limitation as far as the question of regularisation is concerned which is a continuous cause of action. Learned counsel



for the applicant now submitted that he is pressing the OA, only for a direction for regularisation as per rules. In view of the submission, the M.P. is allowed and the OA. will be confined only to consider the case of the applicant for regularisation.

4. As could be seen from the pleadings, the admitted fact is that the applicant had worked as Assistant Point Man from 1.12.1988 to 12.7.1990 though the applicant has claimed earlier service from 1981 onwards which has been seriously disputed by the respondents. Therefore we are proceeding on the basis of admitted period during which the applicant had worked.

5. The respondents' stand is that MRCL who are on rolls are to be given preference for regularisation, but this may not be correct in law. All employees whether in service or not should be considered for regularisation subject to their seniority in the list of casual labour.

6. In the reply, the respondents have clearly admitted the position in Para 11 at page 35 of the paper-book as follows :-

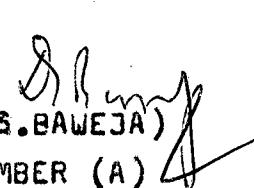
"The Respondents state further that the substitutes/casual labour on the basis of their length of service are called for the screening and after the screening, if found suitable, are empanelled and absorbed as per their turn subject to availability of vacancies."

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In view of this position as admitted by the respondents, there is no legal impediment to give direction to the department to consider the case of the applicant subject to seniority and subject to availability of vacancy. Hence the OA. can be disposed of with this direction.

7. In the result, the OA. is disposed of with the following directions:-

- (1) The respondents are directed to consider the case of the applicant on the basis of seniority in the casual labour on the basis of admitted period of service as and when his turn comes up as per rules.
- (2) In case the applicant is found suitable after screening, then he is entitled to be regularised as per rules subject to availability of vacancies.
- (3) Both OA. and M.P.No. 285/95 are allowed.
- (4) No order as to costs.


(D.S.BAWEJA)

MEMBER (A)


(R.G.VAIDYANATHA)

VICE CHAIRMAN

mrj.