

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Dated this Wednesday the 13th day of February, 2002

Coram: Hon'ble Mr. B.N. Bahadur - Member (A)
Hon'ble Mr. S.L. Jain - Member (J)

O.A. 1169 of 1997

Kunjilal Vanmali Prasad,
aged 44 years,
Helper Khalasi,
under Inspector of Works,
Manmad.
R/O 'B' Road, Limpus Club,
D-322/B, Out house Bhusawal
(By Advocate Shri L.M. Nerlekar) - Applicant

VERSUS

Union of India
through Divisional Railway Manager,
Central Railway, Bhusawal.
(By Advocate Shri R.K. Shetty) - Respondents

O R D E R (Urdu)

By Hon'ble Mr. B.N. Bahadur, Member (A) -

The applicant in this case has come up to this Tribunal seeking the relief as follows:-

- (a) The Respondents be directed to consider the case of the applicant for promotion to the post of Gr.800-1150 and further promotion to the post of Mason Grade III from which he was reverted on account of Administrative lapse in maintaining correct seniority list.
- (b) The Respondent be directed to consider the case of the applicant against reservation quota of Scheduled Caste.
- (c) The Respondent be directed to pay him arrears arising out of re-fixation of his pay to Grade Rs.850-950 and Rs.950-1500 (RPS), as he was reverted on account of Administrative lapse.



.....2/-

(d) Any other relief the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

(e) Costs of this application be provided for.

2. The matter lies in a very short compass, in that the applicant claims that he was reverted wrongly and that he had sought reliefs accordingly. However, very much subsequently, after the filing of the UA, the position has changed, in that an order dated 19.2.1998 has been issued as Office Order No.14/98 by the Divisional Railway Manager, Bhusawal. A copy of this order is at Annexure K-1 (Page 24). By this order it is stated that the applicant who had been reverted vide order dated 6.3.1991 is reinstated to his former post of Mason Grade III, with effect from 18.3.1991. The lapse on the part of Respondent is indeed serious.

3. We have heard the learned counsel on both sides. Shri L.M.Nerlekar who appears for the applicant, states that since the applicant had been reverted wrongly and prevented from working, the principle of no work and no pay would not apply and he is entitled to back wages right from the date of his reversion in 1991. This principle is indeed been settled by Hon'ble Supreme Court in the matter of Union of India & others vs. K.V.Jankiraman, (1993 (23) AIC 322), in that the applicant had been wrongly prevented from working.

4. The learned counsel for the respondents has argued the case with reference to the written statement, but has specially



raised the point about limitation. We see that there is an MP No. 118 of 1997 which has been filed along with the UA for condoning the delay. While admitting the case on 4.9.1998, the Bench had specifically directed that this MP will be decided at the time of final hearing. He has also raised the issue of date from arrears are payable as alternate agent. In view of issue of subsequent order by Respondents the claim revives to be considered and even if MP for delay condonation is not to be allowed, as the right to arrears from twelve months prior to filing of UA is justified. In the facts and circumstances of the case and the settled law, this UA is allowed to the limited extent in terms of the following order:-

(see that there is an MP which was filed along with the UA for condoning the delay. While admitting the case on 4.9.98 the Bench had specifically directed that this MP will be decided at the time of final hearing)

5. We have heard the learned counsel of both sides on the MP and also find that such a long delay cannot be condoned. There is no sufficient cause. We note that the applicant has been reverted which is not an event that could have been gone unnoticed to say the least. Hence he does not have a cause for such a delay which cannot be condoned. In the facts and circumstances of the case and the settled law, this UA is allowed to the limited extent in terms of the following order:-



ORDER

The back wages including allowances etc. admissible shall be paid to the applicant (for the higher post) w.e.f. one year prior to the date of filing of the application. Since the application was filed on 17.9.1997, the arrears will be payable from 1.9.1996.

6. It is unfortunate that the applicant has been made to come to the Court. He is hereby granted costs of RS.2000/(Rupees two thousand only). The UA is disposed of accordingly. (NO COSTS.)

Deleted as per 70 15-00 in RA 11/02

(Signature)
(S.L.Jain)
Member (J)

(Signature)
(B.N.Banadur)
Member (A)

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Order/Judgement despatched to Applicant/Respondent (s) on 21.2.2002 dt. 13.2.2002

(Signature)
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Deleted by order dt 1-5-00 in RA 11/02

(Signature)
(एस. ए. देसाई)
जुज (अधीनस्थ)
राज्य प्रशासनिक आयोग,
महाराष्ट्र सरकार, मुंबई.
दफ्तार नं. ११६/०१, विस्तार रीति,
महाराष्ट्र, मुंबई-४००००४.

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

REVIEW APPLICATION NO.11 of 2002
(In O.A.1169 of 1997)

Dated this Wednesday the 1st May, 2002

Union of India
through the Divisional Railway Manager,
Central Railway, Bhusawal. - Applicant

Versus

Kunjilal Vanmali Prasad,
Helper Khalasi,
I.O.W. Manmad
R/o 'B' Road, Limpus Club,
D.322/B, Outhouse, Bhusawal - Respondent

O R D E R

By Hon'ble Mr.B.N.Bahadur, Member (A) -

This is a Review Petition filed by Union of India through the DRM, Central Railway, Bhusawal (Respondents in OA 1169/97). The petitioner prays for a clarification in regard to the payment of cost as he states there is an error apparent on the face of record which seems to be a clerical error.

2. Para 6 of the order reads as follows:
"6. It is unfortunate that the applicant has been made to come to the Court. He is hereby granted costs of Rs.2000/- (Rupees Two thousand only). The OA is disposed of accordingly. No costs."

3. It is clear that there is an error apparent on the face of the record and hence we proceed to correct it. From a reading of the above Para 6 in the Order it is seen that the cost of Rs.2000/- (Rupees Two thousand only) is consciously awarded in view of the reasons stated therein. The last two words viz. "No costs" have come in as a clerical error. In the circumstances, there is no need for hearing the other side.



....2/-

4. In view of the above, we hereby order that the last two words viz. "No costs" appearing in Para 6 of the Order in OA 1169/97 be deleted. Fresh copies of the order be issued to both sides.

S.L. Jain
(S.L.Jain)
Member(J)

B.N. Bahadur
(B.N. Bahadur)
Member (A)

mb

dt. 11/5/02
order/Judgement despatched
to Applicant respondent (s)
on *9/7/02*
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