

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

DA 410/90.

Dt. of Order: 10.10.1991.

P.Sreeramulu

...Applicant

Vs.

1. The General Manager,
SC Railway, Secunderabad.
2. The Divisional Railway Manager (P),
SC Railway, Vijayawada.
3. Sr.Divisional Engineer (South)
SC Railway, Vijayawada.
4. Assistant Engineer, Ongole,
SC Railway.
5. Permanent Way Inspector,
SC Railway, Kavali.

...Respondents

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Counsel for the Applicant : Shri P.Krishna Reddy

Counsel for the Respondents : Shri N.R.Devraj, SC for Rlys.

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CORAM:

THE HON'BLE SHRI R.BALASUBRAMANIAN : MEMBER (A)

THE HON'BLE SHRI S.SANTHANAKRISHNAN : MEMBER (J)

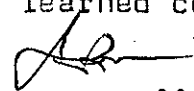
(Order of the Division Bench delivered by
Hon'ble Shri S.Santhanakrishnan, Member (J)).

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In this application under section 19 of the Administrative Tribunals Act, 1985 the applicant requires a direction to the Respondents to provide alternative employment to him in C-2 category.

The Respondents in their counter denied the right of the applicant.

We have heard Shri P.Krishna Reddy, learned counsel

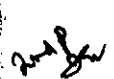
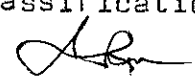

....2.

for the applicant and Shri N.R.Devraj, learned standing counsel for the Respondents. Records are perused. There is no dispute that the applicant was originally working as Casual Labourer in Railways and thereafter he was given temporary status. The Respondents admitted in their counter that the applicant was originally worked as Casual Labour and thereafter he was granted temporary status from 1-1-1983. He was involved in an accident while on duty on 9-8-1988. Due to the accident, the applicant suffered permanent partial disablement on account of amputation to the right leg up-to calf and discharged from hospital on 26-10-1988. Thereafter he was subjected to medical examination on 27-10-88 and the annexure dt.27-10-1988 is the certificate wherein it was found as follows :-

"4. Medical unfitness Unit D-One, D-Two and C-One. **fit in C-Two only**"

As per the certificate the applicant was declared fit to C-Two category. But the grievance of the applicant is that he has not been provided with C-Two category post. He sent two representations but there ^{was} no reply. Hence he has come forward with this application.

The Respondents in their reply admitted that the applicant was given temporary status but there is no post under PWI/KVZ with Medical Classification C-Two and



hence the applicant was discharged from service as per the proceedings dt.13-2-89. It is further contended that as per the instructions issued by the Railway Board dt. 17-9-90 Casual Labourer with Temporary Status, who are medically de-categorised due to injury sustained to them in the course of duty can get their names registered in the special employment exchange for the physically handicapped and the candidates could be considered by the Railway Administration along with others as and when the next recruitment against physically handicapped quota takes place. Hence it is contended that in view of this circular applicant may register his name in the special employment exchange to consider his case for appointment. These instructions are issued only on 17-9-90 and it is nowhere stated that it has got retrospective operation. Hence the instructions do not apply to the applicant, who was medically decategorised even long prior to the instructions namely 27-10-88.

Shri P.Krishna Reddy, learned counsel for the applicant placed reliance on para 2604 (b) of Indian Railway Establishment Manual which ^{states} that a Temporary Railway ⁱⁿ servant/group-II of para 2604, who becomes medically unfit for the post held by him on account of circumstances arising out of and in the course of his employment should

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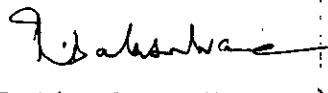
be given leave due + leave without pay so as to make a total period of six months within which alternative employment must be found]. Shri N.R.Devraj, learned standing counsel for the Respondents argues that this will not apply to a person who has got only temporary status. On this aspect, Our attention were drawn to Indian Railway Establishment Manual by M.L.Jhbn, JAND, 1985 addition, page-771, wherein it is pointed out that the person on getting temporary status will be entitled to all the rights and privileges admissible to the Temporary Railway Servant under chapter-XXIII of Indian Railway Establishment Manual. Our attention was also drawn by the learned counsel appearing for the applicant to a judgment passed in TA 231/86 dt.19-3-87, wherein a person who was not even obtained Temporary Status was found entitled to an alternative employment and a direction was given to the Railways to provide an alternative employment to the applicant therein. Hence we are unable to agree with the contention of the standing counsel appearing for the Railways that para 2604(b) of the I.R.E.M. do not apply to a person who has got only temporary status.

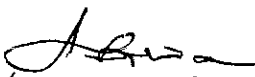
In view of the above discussion the application has got merits and it will have to be allowed and the

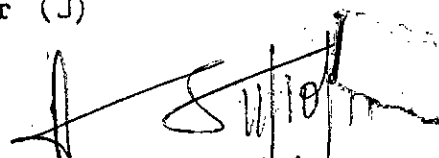


.....5.

Respondents are directed to provide employment to the applicant in C-Two category as per para-2604(b) of Indian Railway Establishment Manual within six months from the date of receipt of this order. We however direct the parties to bear their own costs.


(R. BALASUBRAMANIAN)
Member (A)


(S. SANTHANAKRISHNAN)
Member (J)


Dy. Registrar (J)

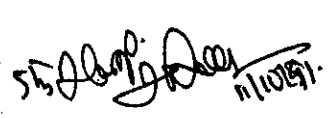
Dated: 10th October, 1991.

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To

1. The General Manager, S.C.Railway, Secunderabad.
2. The Divisional Railway Manager (P) S.C.Railway, Vijayawada.
3. The Sr. Divisional Engineer (South) S.C.Rly, Vijayawada.
4. The Assistant Engineer, Ongole, SC Railway,
5. The Permanent Way Inspector, SC Railway, Kavali.
6. One copy to Mr.P.Krishna Reddy, Advocate, CAT.Hyd.
7. One copy to Mr.N.R.Devraj, SC for Rlys.
8. One spare copy.

pvm


11/10/91

TYPED BY
CHECKED BY

ASR
11/10
COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.

V.C.

AND

THE HON'BLE MR.

M(J)

AND

THE HON'BLE MR.

M(J)

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: (A)

The Hon'ble Mr. S. Sadhana Krishna

DATED: 10 - 10 - 1991

~~ORDER~~ / JUDGMENT:

Central Administrative Tribunal
DESPATCH
23 OCT 1991
HYDERABAD BENCH

M.A./R.A./C.A. No.

in

O.A.No.

T.A.No.

(W.P.No.)

Admitted and Interim directions
Issued.

Allowed.

Disposed of with direction.

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

M.A. Ordered/Rejected

No order as to costs.