

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. 199 of 1997

9.4.1999
DATE OF DECISION.....

Shri K.K. Saikia (PETITIONER(S))

Mr G.K. Bhattacharyya, Mr G.N. Das and
Ms B. Dutta Das ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India and others RESPONDENT(S)

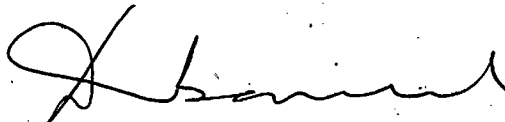
Mr B.K. Sharma, Railway Counsel ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR JUSTICE D.N. BARUAH, VICE-CHAIRMAN

THE HON'BLE MR G.L. SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.199 of 1997

Date of decision: This the 9th day of April 1999

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri Karuna Kanta Saikia,
Pharmacist, N.F. Railway,
Jogighapa.

.....Applicant

By Advocates Mr G.K. Bhattacharyya,
Mr G.N. Das and Ms B. Dutta Das.

-versus-

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Railways,
New Delhi.
 2. The General Manager (Construction),
N.F. Railway,
Maligaon, Guwahati.
 3. The Chief Personnel Officer,
N.F. Railway,
Maligaon, Guwahati.
 4. The Deputy Chief Engineer (Construction),
N.F. Railway, Jogighapa.Respondents
- By Advocate Mr B.K. Sharma, Railway Counsel.

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O R D E R

BARUAH.J. (V.C.)

The applicant has once again approached this Tribunal regarding the date of regularisation of his service.

2. The facts for the purpose of disposal of this application are:

By Annexure V order dated 25.3.1983 the applicant was appointed Pharmacist on casual basis. He was granted temporary status with effect from 1.2.1984 by Annexure

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VI order dated 6.10.1986 and he was entitled to all the benefits of temporary status applicable to temporary staff.

3. In September 1987 the applicant submitted Annexure VIII representation dated 7.9.1987 praying inter alia, for his absorption in a regular post in the Railway Medical Department. By Annexure XII order dated 6.4.1993 the 2nd respondent informed the applicant that he would be regularised after holding a screening test for Pharmacist. Thereafter the applicant was asked to appear before the Screening Committee. The applicant accordingly appeared in the screening test on 26.4.1993 alongwith four other employees. On 8.6.1993 the other four casual employees were regularised. However, the applicant was not regularised on the ground that he was not qualified to be regularised. Being aggrieved, the applicant approached this Tribunal by filing original application No.62 of 1994. The said original application was disposed of by this Tribunal by order dated 1.6.1995 allowing the application. In the said judgment this Tribunal observed as follows:

"Apart from the fact that the applicant appears to have passed the Pharmacist course he has been working although on a casual basis since he had taken up private employment in pharmacy and had registered under the District Employment Exchange for suitable employment. It was, therefore, that his name was sponsored by the Employment Exchange to the Railways when the names were called for. The fact that the applicant had acquired temporary status shows that his service was not deficient in any way as pharmacist. We are, therefore, satisfied that the applicant is entitled to be regularised as a pharmacist in the service of the respondents. Since the applicant was dropped at the stage of the viva-voce, we pass the following order:

The respondents may hold a viva-voce examination for the applicant and if he qualifies then consider his regularisation as a Pharmacist with due date."

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Pursuant to the said judgment a viva voce test was held on 18.3.1997. The result was published and as per the result the applicant qualified in the test. Accordingly he was regularised in service with effect from 21.3.1997, i.e. the date of approval by the authority. The applicant was aggrieved by the decision of the authority to regularise him only with effect from 21.3.1997. Hence the present application.

4. We have heard Ms B. Dutta Das, learned counsel for the applicant and Mr B.K. Sharma, learned Railway Counsel. The contention of Ms Dutta Das is that the decision of the authority to regularise the applicant only with effect from 21.3.1999 was contrary to the order of this Tribunal dated 1.6.1995 passed in original application No.62/94. Mr Sharma very fairly submits that as per the judgment of this Tribunal, the applicant ought to have been appointed from the due date, i.e. from the date on which the other four casual employees were regularised by Annexure XIV order dated 8.6.1993. We have perused the order of this Tribunal dated 1.6.1995 passed in original application No.62/94. We find that the contention of Ms Dutta Das has force and this is also not disputed by Mr Sharma. According to Mr Sharma the delay in regularisation of the applicant took place because of incorrect interpretation regarding the qualification required for the post of Pharmacist.

5. In view of the above we allow the application and direct the respondents to regularise the applicant with effect from the date on which the other four casual employees were regularised as per Annexure XIV order dated 8.6.1993. This must be done forthwith.

6. No order as to costs.


(G. L. SANGLYINE)
ADMINISTRATIVE MEMBER


(D. N. BARUAH)
VICE-CHAIRMAN