

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, INDORE

O.A.NO.247/1999

Indore, this the 18th day of February, 2003

HON'BLE MR. N.N. SINGH, VICE CHAIRMAN (J)
HON'BLE MR. GOVINDAN S. TAMPI, MEMBER (A)

Badriprashad Pathak
S/o Late Shri Purshottam Pathak,
Aged 50 years,
Record Clerk, Station Manager's Office,
Indore, R/o Kumar Bakhal,
Betma, Tahsil Depalpur,
District : Indore

... Applicant

(By Advocate : Shri D.M. Kulkarni)

Versus

1. Union of India through General
Manager, Western Railway,
Churchgate, Mumbai
2. Divisional Manager, Western Railway,
Ratlam
3. Inspector general, Railway Security
Force,
Western Railway, Churchgate,
Mumbai

.... Respondents

(By Advocate : Shri Y.I. Mehta along with
Shri H.Y. Mehta)

O R D E R (Oral)

BY GOVINDAN S. TAMPI, MEMBER (A) :

Applicant is aggrieved that he was put to loss of 22 months' service on account of the delay caused by the respondents and therefore, seeks redressal thereof.

2. Shri D.M. Kulkarni, learned counsel was present for the applicant, while Shri Y.I. Mehta, assisted by Shri H.Y. Mehta represented the respondents.

3. The applicant who joined Railway Protection Force as a Constable in August 1973, had sustained a

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fracture on 20.8.1985, which led to his becoming unwell repeatedly. He was also operated upon more than once. He was declared medically unfit for holding the job of Constable on 12.3.1996, but was permitted to be accommodated in an alternative job of medical category B-1. Thereafter, the applicant approached the respondents in representation and the latter finally posted him after test as a Clerk on 13.1.1998. He joined the post immediately thereafter. His request that the period between 12.3.1996 and 13.1.1998 be deemed as 'injured on duty' was rejected holding that there was no unreasonable delay in granting him alternate employment. According to the applicant he was made to sit at home for as long as 22 months for no fault of his. He should have been paid salary for the said period with full consequential benefits. The above period should also have been included in the qualifying service for the purposes of grant of pensionary benefits. Shri D.M. Kulkarni reiterated the above pleas.

4. According to the respondents, the applicant seeks protection of the period when he was unwell on account of the injury suffered during his period with the Railway Protection Force for the purposes of pension and this had not been mentioned on his joining duties as Clerk. Some delay did indeed take place but the same did not amount to much as it had occurred only to the attempts made by the respondents to find a suitable alternate employment. Further, vacancy in the grade of Clerk to accommodate the applicant arose only on a

subsequent date, when he was appointed and therefore, for the intervening period he could not be given pay and allowances and increments. This has been correctly done and no interference from the Tribunal was called for, pleads Shri Mehta on behalf of the respondents.

5. We have carefully considered the matter. The facts are not disputed. The applicant who joined as a Constable in Railway Protection Force in August 1973, was medically decategorised in March 1996 which was the result of a fracture that occurred in August 1985 leading to repeated difficulties. His services were therefore, dispensed with and he was appointed as a Clerk, keeping in mind his medical category, but twenty two months later. The applicant, therefore, desires that he be compensated for the loss by payment of salary, service benefits etc. which is stoutly opposed by the respondents, as according to them the injury leading to the inability had arisen while the applicant was working with Railway Protection Force, in respect of which the Tribunal had no jurisdiction. On consideration of the issue, we are convinced that the applicant has no case. He had come into the service of the respondents only after his decategorisation, to work as LDC. The injury or fracture which occurred in August 1985, leading to consequential disability to perform as Constable related to the period in which he was attached to Railway Protection Force, a Para-Military uniformed organisation, over which the Tribunal has no jurisdiction. We further find that the respondents have attempted to find vacant posts to accommodate the

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applicant in which he was to be adjusted after decategorisation. It did take some time but the respondents finally accommodated him as a Clerk. The onus for his being re-inducted in service cannot be laid at the door of the respondents and they cannot, therefore, be directed to give him retrospective appointment from the day of his medical decategorisation and to pay him arrears of pay and allowances. He has already been given notional increments during the period 1996-98 as admitted by the applicant himself (from the date of his disengagement as Constable on decategorisation to the date of his engagement as Clerk), and no break in service has been caused. Nothing further remains to be done and the applicant cannot ask for more.

6. The applicant has not, we are convinced, made out any case for Tribunal's intervention. OA fails and is accordingly dismissed. No costs.

(GOVINDAM S. TAMPI)
MEMBER (A)

(N.N. SINGH)
VICE CHAIRMAN (J)

पूजास्थान का नाम.....
पूजा करने वाले का नाम.....
पूजा करने की तिथि.....

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Dr. Kulkarni Ad
Y. M. H. A. C.

John & Anna

Issued
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