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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.8243 OF 2007

Shri Ganesh Bhimrao Kamble

... Petitioner

Vs.

The General Manager,
Central Railway and Ors.

... Respondents

Mr. Sandeep V. Marne for the Petitioner.

Ms. Shaileja Nair i/b. Mr. T.J. Pandian for the Respondent Nos.1 to 3.

CORAM : A.S.OKA AND M.S. SONAK, JJ.

DATE : 30th AUGUST 2018.

P.C. :

1 Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent. The challenge in this petition under Article 226 of the Constitution of India is to the order dated 12th April 2007 passed by the Central Administrative Tribunal (for short “the said Tribunal”). The case made out by the respondent is that the Central Railway engaged him as a casual labour since 10th June 1998 except broken intermittent periods on technical ground or non-availability.

2 According to the case of the petitioner, oral order of termination was issued on 9th July 2004. After serving legal notice, the original application was filed praying for various reliefs including the relief of grant of regular appointment as Class-IV employee. The original application proceeded on the footing that the petitioner has worked for 120 days continuously excluding the intermittent brakes and more than 240 days from June 2000 to May 2001.

3 By the impugned judgment, the Tribunal dismissed the
Original Application. The Tribunal relied upon the decision of the Apex
Court in the case of *State of Karnataka Vs. Uma Devi*¹.

4 The learned counsel appearing for the petitioner has taken us
through the impugned order and the case made out by the petitioner in
support of his original application. He invited our attention to the
prevailing policy of the Central Railway under which the petitioner
claimed regularisation. He submitted that the petitioner fulfilled the
criteria laid down by the scheme of Central Railways for regularisation
and therefore, there was no reason to deny the regularisation of the claim.

5 We have considered the submissions. Even according to the
case of the petitioner, he was employed between 10th June 1998 to 9th
July 2004 with intermittent brakes. In the light of the law laid down by
the Apex Court in the case of *Secretary, State of Karnataka Vs. Uma Devi*,
the Tribunal could not have given effect to the so called policy adopted by
the Central Railways. In any event, on his own showing, the petitioner has
not completed 10 years of service.

6 In the light of the law laid down by the Apex Court, we find
no error in the impugned order. Accordingly, there is no merit in the
petition and the same is rejected with no order as to costs.

(M.S. SONAK, J.)

(A.S.OKA, J.)

1 2006 SCSLJ 480