

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1808 OF 2021

Uttamrao Shankar Vyavahare	}	Petitioner
Versus		
The Union of India and Ors.	}	Respondents

Ms. Brenda D'souza for the petitioner.

Mr. T. J. Pandian for the respondents.

**CORAM: DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE: JUNE 7, 2022

P.C.:

1. The petitioner's original application (Original Application No. 776 of 2014) has been dismissed on the ground of delay as well as on merits by the Central Administrative Tribunal, Mumbai Bench, Mumbai (hereafter "the Tribunal", for short) by its order dated 16th November 2018. Aggrieved thereby, the writ jurisdiction of this Court has been invoked on 15th December 2020.

2. The prayer in this writ petition is only for quashing of the order dated 16th November 2018. The petitioner has not prayed for any consequential relief. Indeed, the prayer clauses are defective. However, without taking a very serious view of the matter, we have proceeded to hear the parties.

3. The petitioner was employed as casual labour in the Central Railway. He had approached the Tribunal earlier on more than a couple of occasions seeking regularization in service. However, the Tribunal declined his prayer on each

such occasion. By efflux of time, the petitioner has since attained the age of 60 years and ceased to be in the employment of the Central Railway.

4. The petitioner had approached the Tribunal lastly by instituting O.A. No. 776 of 2014 wherein he prayed for setting aside of an order dated 7th March 2012. Such order was passed by the Divisional Railway Manager, Bhusawal pursuant to an order dated 12th January 2012 of the Tribunal while disposing of a previous original application (Original Application No. 396 of 2012) of the petitioner. The petitioner's prayer for absorption in service was rejected by such order dated 7th March, 2012.

5. Since the petitioner is no longer in the employment of the Central Railway, question of absorbing him in service does not and cannot arise. Rightly Ms. D'souza, learned advocate for the petitioner has not pressed for relief as claimed in the writ petition. However, she has prayed that the respondents may be directed to pay some lumpsum amount to the petitioner so that he can survive during the winter days of his life.

6. The prayer of the petitioner has been vehemently opposed by Mr. Pandian, learned advocate representing the respondents. According to him, the petitioner being a casual labour, is not entitled to any terminal benefits under any statutory rules.

7. We cannot agree more with Mr. Pandian that the petitioner has no legal right to claim retiral benefits under any statutory rule. However, considering the fact that the petitioner put in substantial years of service as a casual

labour, we grant him liberty to make a representation before the competent authority seeking a lumpsum amount and if such representation is received and if at all any circular/executive instruction so permits, the competent authority may proceed to dispose of the same in accordance therewith.

8. It is made abundantly clear that this order is not to be construed as direction upon the competent authority to grant any lumpsum amount claimed by the petitioner. A sympathetic view is taken having regard to the special facts and circumstances, which ought not to be cited as a precedent in any future case.

9. The writ petition stands disposed of. No costs.

10. After the aforesaid order has been dictated, Ms. Masurkar, learned advocate appears and submits that a letter of engagement has been issued in her favour by the respondents to represent them and that she ought to be heard.

11. In view of such submission, we have looked into the records. An office note dated 4th April 2022 records that vakalatnama has been filed by Mr. Pandian. We have looked into the vakalatnama, which has been executed by one Dilip Kharat on behalf of Central Railway, Bhusawal (respondent nos. 1 and 2) in favour of Mr. Pandian. As on date, there has been no revocation of the power conferred on Mr. Pandian by the Central Railway. Therefore, we find no reason to grant an audience to Ms. Masurkar.

SALUNKE
J V

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(M. S. KARNIK, J.)

(CHIEF JUSTICE)