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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1806/1998
M.A. NO.2408/1998

New Delhi this the 19th day of January, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI R. K. AHOOJA, MEMBER(A)

Jai Shankar Lal,
Phone Mechanic,
C/O Office of Telecom District Manager,
Kundli, Sonepat,
Haryana.

...Applicant

(By Advocate Mrs. Rani Chhabra)

-Versus-

1. Union of India through
Secretary, Ministry of Communications,
Department of Telecommunications,
Sanchar Bhawan,
New Delhi.

2. Chief General Manager (Telecom),
Dept. of Telecommunications,
Haryana Circle, Ambala Cantt,
Haryana.

3. Telecom District Manager,
Department of Telecom,
Rohtak-124001.

4. Divisional Engineer (Plg.),
O/o Telecom District Manager,
Department of Telecom,
Rohtak-124001.

5. Sub Divisional Engineer (Admn.),
O/o Telecom District Engineer,
Sonepat (Haryana).

...Respondents

(By Advocate Shri K. R. Sachdeva)

O R D E R (ORAL)

Shri R. K. Ahooja, AM :

The applicant who was working as Lineman at Siwani, Haryana, was deputed for 12 weeks' training course for Phone Mechanic at Rajpura. The applicant submits that on completion of training he was as per the normal procedure required to report back at

(22)

Siwani. Orders were issued on 17.8.1993 posting the applicant under SDO Telephones, Charkhi Dadri. The applicant states that though he had reported to the SDO, Charkhi Dadri he was told that no work was available and, therefore, he had returned back to Siwani and worked there as Phone Mechanic. However, the respondents state that the applicant was directed by SDO, Charkhi Dadri to report at Sorakhi. He did not do so. Ultimately, he reported on 10.1.1994 at Kundli. The respondents thereafter issued an order that the applicant will be entitled to pay scale of Phone Mechanic w.e.f. 10.1.1994 and the period between 18.8.1993 and 9.1.1994 will be treated as dies non.

2. The case of the applicant is that the orders dated 17.8.1993 could not be complied with by him because on reporting at Charkhi Dadri he was informed that no vacancy was available for him; per force, he had to go back to Siwani where he had worked upto 9.1.1994 except for the period from 1.11.1993 to 30.11.1993 when he remained on leave. He, therefore, claims that as his absence from Charkhi Dadri was not attributable to him, he should be granted the pay scale of Phone Mechanic w.e.f. 18.8.1993.

3. We have heard the counsel. We find that the applicant himself admits that he had received the orders dated 17.8.1993. We have also a copy of an order issued by the SDO, Charkhi Dadri on 16.8.1993 at Annexure A-II to the counter stating that the

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24

applicant was being transferred and posted at Sorakhi vice one Shri Ram Gopal Mishra. the applicant states that this order was never served upon him. In other words, there is a dispute regarding the fact of service of this order upon the applicant.

4. It is well settled that the Tribunal is not required to go into the disputed questions of fact as the same involve reappreciation of evidence. We are of the view that once the applicant had been directed to report for duty at Charkhi Dadri he would have also been served by the order dated 16.8.1993, if he had actually gone there, in the normal course of business. We, therefore, see no reason to disbelieve the version of the respondents that the applicant had been served with the order dated 16.8.1993 but he did not report at Sorakhi, the place of posting assigned to him.

5. We also find that though the orders treating the aforesaid period as dies non issued on 4.7.1994, the present O.A. was only filed on 3.6.1998, i.e., after a delay of more than three years. The applicant has also filed an application for condonation of delay. In our view, the very fact of delay indicates that the applicant had accepted the fact that he had not reported at his place of duty as directed by the order dated 16.8.1993 and the present application is an after-thought. We, therefore, do not accept the plea for condonation of delay.

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6. In the result the C.A. is dismissed both on merits as also on grounds of limitation. There shall, however, be no orders as to costs.


(Ashok Agarwal)
Chairman


(R. K. Ahooja)
Member (A)

/as/