

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No.  
T.A. No. 1779/89

1989

DATE OF DECISION 13.12.1989

Hari Kishan \_\_\_\_\_ Applicant (s)

Shri B.S. Bindra \_\_\_\_\_ Advocate for the Applicant (s)

Versus

Union of India & Others \_\_\_\_\_ Respondent (s)

Shri Shyam Moorjani \_\_\_\_\_ Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. T.S. Oberoi, Member (J)

The Hon'ble Mr. I.K. Rasgotra, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? No
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. To be circulated to all Benches of the Tribunal ? No

JUDGEMENT

(Delivered by Hon'ble Shri I.K. Rasgotra, Member (A)

The applicant, an employee with temporary status (IOW-Horticulture, Northern Railway) w.e.f. 15.11.1980 filed this application on 21.8.1989 under Section 19 of the Administrative Tribunal Act, 1985, praying for direction to the respondents to allow him to resume duty without break in service on full pay and allowances and to treat the intervening period starting from 29.3.1989 as duty.

2. The case of the applicant in brief is that he was engaged initially as a daily wager in the capacity of Mali/Khalasi w.e.f. 5.7.76 and was granted temporary status in the same trade w.e.f. 15.11.1980. He



availed of 4 days sanctioned casual leave w.e.f. 29.3.89 to 1.4.89. He further applied for 8 days earned leave from 3.4.89 to 10.4.89, which was sanctioned. He overstayed his leave by six days. On expiry of the leave/absence, the applicant was not allowed to resume duty and that wages due were not paid to him. He filed an appeal against illegal withholding of 18 days' wages payable to him for the month of March, 1989 and for not allowing him to resume duty on expiry of his leave/absence with the Inspector of Works, Horticulture, New Delhi on 12.6.1989. No reply to his appeal has been received by him so far. He, therefore, filed this application.

3. The respondents in their counter affidavit have brought out that the applicant had absented himself from duty from 30.3.1989 till 28.9.89 without intimation and unauthorisedly. He reported for duty only on 29th September, 1989 when he was taken back. He was served a charge sheet for imposing of a minor penalty on him on 4.5.1989. The charges stated at the back of the charge sheet (SF 11) briefly are:

- (a) Absconding from duty w.e.f. 30.3.1989 without prior sanction of leave and intimation;
- (b) misbehaviour with fieldman and using unparliamentary language;
- (c) Violation of Railway Rule No.3(ii) 53(iii)

4. In his response to the chargesheet, the applicant denied these charges, vide his letter dated 11 May, 1989.

5. We have heard the Ld. Counsel for both the parties and have gone through the record. We note that the applicant has already been taken back on duty w.e.f. 29.9.1989. The issue of regularisation or otherwise of the period from 30.3.1989 to 28.9.89 is the subject matter of the enquiry being held under Railway Discipline and Appeal Rules. While the respondents maintain that the applicant was absent from duty without any intimation, the applicant contends that he was not allowed to resume duty by the respondents. In the circumstances of the case, we would refrain from interfering in the matter and would like the enquiry to be finalised at the earliest, to determine the facts of the matter. We also observe that the enquiry has not made much progress, possibly due to frequent changes of the Enquiry Officer.

6. Having regard to the above, we direct the respondents to finalise the proceedings of the enquiry within three months from the date of this order. The applicant will be at liberty to come before the Tribunal, in the event he is not satisfied with the result of the enquiry. The application is disposed of accordingly, without any order as to costs.

*Abhijit*  
(I.K. Rasgotra) 13/12/89  
Member (A)

*Abu* 13/12/89  
(T.S. Oberoi)  
Member (J)