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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

DA NO. 1894/89

DATE OF DECISION: 10.7.90

SHRI KANWAR BHAN

APPLICANT

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

SHRI V.P. SHARMA

ADVOCATE FOR THE APPLICANT

SHRI SHYAM MOORJANI

ADVOCATE FOR THE RESPONDENTS

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

J U D G E M E N T

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

Shri Kanwar Bhan was appointed as a substitute by Chief Yard Master, Tuglakabad Railway Station, as a stop gap and temporary measure on 4.3.1974. He was screened alongwith other casual labourers and declared suitable for the post of khalasi. He was assigned merit No. 68 on the basis of casual labour service of 659 days rendered by him. He officiated off and on as a Booking Clerk at various stations till the vacancies were filled up by regular appointees and was finally posted under Chief Reservation Supervisor, Sarojini Nagar against the newly

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created post of khalasi vide DRM office order No. 729/E/12/810(DUP)P-3 dated 29.11.1984 under the administrative control of Station Superintendent, New Delhi. He joined at Sarojini Nagar on 4.3.1985.

According to the applicant he was not allowed to resume duty when he went to his place of posting, Sarojini Nagar, on 5.3.1985 and thereafter continued to be deprived **illegally by the respondents of his right to work on the place and the post to which appointed.** Aggrieved by the above, the applicant filed this application under Section 19 of the Administrative Tribunals Act, 1985 on 8.9.1989.

2. While the contention of the applicant is that he has not been allowed to resume duty from 5.3.1985 the respondents vehemently assert that the applicant absented himself from duty w.e.f. 5.3.1985 unauthorisely. He was, therefore, issued a major penalty chargesheet on 6.6.1986 under Discipline and Appeal Rules. The applicant however did not participate in the inquiry proceedings despite notice. The inquiry was conducted ex-parte and a punishment of reuduction in time scale by two stages with cumulative effect for two years was imposed on him by the disciplinary authority. The applicant continued to remain absent till 6.7.1989, when he met the Senior Divisional Personnel Officer, New Delhi, with a request to allow him to resume duty. He was accordingly posted as khalasi at Delhi vide order No.729/E/12/810/P-1 dated 12.10.1989. The respondents further affirmed that he has not joined his duty so far. They also dispute the statment of the applicant that he was not allowed to

perform his duty.

3. In accordance with our direction in the course of earlier hearing, the learned counsel for the respondents filed a copy of the order No.729 E/12/810/P-1 dated 29.3.1990, posting Shri Kanwar Bhan, applicant, as khalasi in the scale of Rs.750-950 at Shamli Station, to enable him to resume duty. The applicant was therefore directed to join duty immediately in accordance with the said order and thereafter make a suitable representation to the respondents for payment of dues, if any, as he was said to be in most indigent circumstances.

4. The only issue left for disposal now is treatment of period of absence from 5.3.1985 to the date the applicant resumes duty, we are of the opinion that it will not be possible for us to decide whether the applicant was deliberately absenting himself from 5.3.1985 till the applicant filed this application in the Tribunal or he had been prevented from performing his duty on the basis of the material before us. This is a matter which can be decided after holding a proper inquiry in the matter at appropriate level in accordance with rules.

Accordingly, we direct that the respondents shall hold a proper inquiry in regard to the alleged unauthorised absence of the applicant, duly giving him reasonable opportunity to participate in the inquiry.

There will be no orders as to the costs.

*I.K. Rasgotra*  
(I.K. RASGOTRA)  
MEMBER (A)

17/7/90

*T.S. Oberoi*  
(T.S. OBEROI)  
MEMBER (J)

10.7.90