

OA NO.360/86

DATE OF DECISION: 30.7.1990

SHRI HARI KISHAN

APPLICANT

VERSUS

UNION OF INDIA

RESPONDENTS

SHRI V.P. SHARMA

COUNSEL FOR APPLICANT

SHRI JAGJIT SINGH

COUNSEL FOR RESPONDENTS

CORAM:

HON'BLE SHRI S.R. SAGAR, MEMBER (J)

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

JUDGEMENT (ORAL)

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(DELIVERED BY HON'BLE SHRI I.K. RASGOTRA, MEMBER (A))

The learned counsel for the respondents, Shri Jagjit Singh was not present even when the case was called 2nd time. The MP-1066/89 filed by the petitioner in the main application was served on the respondents on 30.1.1990. Since then the Advocate for the respondents (in the OA) has been seeking time for filing reply. On 25.7.1990, when the case came up before the Bench, the Advocate, Shri Jagjit Singh was stated to be busy in High Court. The case was, therefore, listed before the Bench today on 30.7.1990. The prayer of the petitioner in the MP is that the respondents be directed to allow the applicant to perform normal duties.

As the relief claimed for is the same which is being sought in the OA, we have perused the application and the reply to the OA filed by the respondents. The main issue involved is that the applicant while working as Shunter Porter at Bamla Railway Station had taken two days leave on 25th and 26th March, 1985. When he reported for duty on 31.3.1985 the applicant was put-off duty by the Assistant Station master and reported the matter to Traffic Inspector, Delhi. Since then the applicant has maintained that he has not been allowed to resumed duty, while pleading of the respondents in the reply is that he was unauthorisedly absent from duty. It is observed from the respondents' reply that the applicant met the concerned Traffic Inspector but he did not obey his order and continued to be absent unauthorisedly till date. Accordingly, now a chargesheet

15

has been issued for unauthorised absence and for his taking away private No. book of the A.S.M. surreptitiously. Presently the enquiry is in progress against the misconduct of the applicant under the Discipline & Appeal Rules. The learned counsel for the applicant conceded that the petitioner is in receipt of SF-11 and SF-5, one minor and one major penalty chargesheets and that the applicant was participating in the enquiry being held by the Traffic Inspector.

The issue regarding the refusal of the respondents to allow the applicant to join duty or treating him as absent unauthorisedly can be decided only in an enquiry conducted under the Rules. It cannot be adjudicated upon by the Tribunal.

In view of the facts of the case, we order and direct that the respondents shall allow the applicant to resume duty at Bamla Station or any other Station nearby where a vacancy for Shunter Porter is available within two weeks from the date of communication of this order. It is further directed that the enquiry now being held under the DAR Rules against the applicant shall be finalised by the respondents in a period of six months from the date of issue of this order. The MP 360/88 and OA 360/86 are disposed of with the above directions.

There will be no orders as to the costs.

I.K. Rasgotra
(I.K. Rasgotra)
Member (A) 30/7/90

S.R. Sagar
(S.R. Sagar) 30.7.90
(Member (J))