

In the Central Administrative Tribunal

Principal Bench, New Delhi

OA No. 1412/87

Date of decision:

4/9/92

Shri Om Prakash Soni .. Applicant

Vs.

Union of India & Ors... Respondents

CORAM

The Hon'ble Mr. Justice Ram Pal Singh, Vice-chairman(J)

The Hon'ble Mr. I.P.Gupta, Member(A)

For the applicant: Shri S.K. Bissria, Counsel

For the respondents: Shri Jagjit Singh, Counsel.

1. Whether reporters of local papers may be allowed to see the judgement?

2. To be referred to the Reporter or not?

JUDGEMENT

(Delivered by Hon'ble Shri I.P. Gupta, Member(A):

In this application filed under section 19 of the Administrative Tribunal Act, 1985, the applicant has requested that he may be allowed to complete his training as Apprentice Signal Inspector Grade III and on successful completion of training the respondents should be directed to appoint him as Signal Inspector.

2. The applicant was selected through the Railway Service Commission for the post Apprentice Signal Inspector

Grade III by letter dated 27th May, 1983. The period of apprenticeship was for two years during which period monthly stipend was made available under the Rules. An agreement was executed between the applicant and the respondents regarding the training. The agreement included inter-alia, the following clause:-

"The continuance of the training shall depend on the satisfactory conduct and progress of the trainee as certified to the Government the Authority under whom he may be serving. Should he at any time during the training not satisfy the authority under whom he is working, he is making good progress or that his conduct is otherwise satisfactory, he shall be liable to be discharged from his training herein provided. The Government or the officer appointed by whom in that behalf shall be sole and absolute judge (whose decision shall be final) for the purpose of determining whether the progress of the trainee in training is or is not satisfactory."

3. The learned counsel for the applicant contended that the applicant has almost completed practical and line training and as such he was scheduled to undergo theoretical training at the Indian Railway Institute of Signal Engineering and Tele-communication, Secunderabad and Zonal Training

School, Bhusaval. The respondents, however, without any intimation in writing to the applicant did not allow him to complete his training in an arbitrary and ~~discriminatory~~ ^{disciplinary} manner. Several representations were made against the act of the respondents in not permitting the applicant to complete his training but no reply was received.

4. The learned Counsel for the respondents contended that the applicant was to undergo training at Jhansi, Jabalpur, Bhusaval and Bombay Division for 24 months. He completed his training satisfactorily at Jhansi and Jabalpur for the period 24.10.83 to 28.12.83 and from 6.1.84 to 14.3.84 respectively. When he was directed to Divisional Railway Manager, Central Railway, Bombay for further training at Jabalpur Division on 14.3.84 he reported sick from 15.3.84 to 24.3.84 and reported to DRM Bombay on 27.3.84. The respondents in Annexure IV have indicated the period during which the applicant was either on leave or was absent on account of sickness or otherwise. The respondents have also shown us the records to indicate that on the attendance sheet he was marked "not present" on a number of days ⁱⁿ 1984 and that he was not paid stipend for a substantial period. A letter dated 7.10.1985 was also issued to the Secretary, Ministry of Railways (Railway Board) by the office of General Manager which gives out the brief history of the case. The letter is quoted below:-

[Signature]

"The Board are advised that Shri Om Prakash Soni, a selected RSC candidate was appointed on Bombay Division as Apprentice SI-III Grade Rs.425-700(RS) on 21.10.83. The duration of the Apprenticeship neither he had undergone training on Open Line properly nor he had

41

attended initial training at IRISET, Secunderabad. Brief history of the case is as under:- i) When he was under training on BSL Division, he was granted 2 days APL from 29.3.84 to 30.3.84. Subsequently, he reported for duty to the Chief Signal Inspector Bhusaval with MS & M98 Certificate No.NC-F-297432 dated 21.5.84 issued by Assistant Divisional Medical Officer, Bhusaval. As Shri Soni has been irregular in his attendance/training, he was relieved by Divisional Railway Manager, Bhusaval and directed to Divl. Railway Manager, Bombay with all relevant documents on 22.5.84. Instead of reporting to DRM/BM, Shri Soni again remained on sicklist without any intimation from 23.5.84 to 19.6.84. He had approached Divl. Manager's office, Bombay only on 21.6.84. He was again directed for training under Chief Signal Inspector, Byculla and Kalyan for a period of 2 months from 22.6.84. While undergoing training at Byculla, Shri Soni took 2 days casual leave on 3.8.84 and 4.8.84 and remained absent from 4.8.84 without any intimation.

29

5. In view of his unsatisfactory progress of training he was discharged by the competent authority w.e.f. 30/9/84. He is not a member of SC/ST community" 5. A letter dated 17.10.85 was also issued to the applicant saying that his representation to Railway Minister in connection with his nomination for training has been examined and he is informed that owing to unsatisfactory progress of training he has been

30

discharged from service with effect from 30.9.84 in terms of para 3 of the Agreement Bond executed by him at the time of his appointment. The Learned Counsel for the applicant contended that no such communication was ever received. The postal envelope on the records produced by the respondents showed that the letter was sent but it was returned by the Post office with the remarks "not found".

6. We shall first deal with the question of limitation in this case, raised by the respondents. The applicant was discharged from training from 30.9.84. Even though the applicant contends that no discharge order was received and he was not allowed to continue on training, the cause of action arose in 1984. A reply with reference to applicant's letter to the Minister was sent to the applicant on 17.10.85. The position about non-receipt of the letter by the applicant has been stated above. However, this was with reference to applicant's representation dated 7.9.85 to the Minister. The A.T. Act came into force from 1.11.85. Even after allowing the full period of one ~~year~~ ^{year} 6 months from 1.11.85 ~~as~~ (instead of ~~the~~ earlier dates of representations) and assuming that no reply to any representation was received by the applicant) the period of limitation expired on 1.5.1987 but the application was filed only in September, 1987. Nevertheless we proceed to examine on merit.

JUL

7. It is seen from the agreement executed between the applicant and the respondents regarding training that there was a clause to the effect that should the applicant at any point of time during the training not satisfy the authority under whom he was working that he was making good progress or that his conduct was otherwise satisfactory, ~~as~~ he was liable to discharge from training. The applicant

remained ~~ir~~regular may be, due to the circumstances beyond his control, but the records do show his absence from the training for considerable periods, due to death in the family or due to his sickness, for which, there is private doctor's certificate on some occasions and on other Railway Doctor certificate. Inspite of his irregular attendance on Bhusawal division, the respondents gave him chance further and posted him for training on Bombay Division. The applicant did not improve his attendance. In view of the unsatisfactory progress of training, he was discharged by the competent authority from training with effect from 30.9.84.

8. We see no merit in the application and we dismiss it both on grounds of limitation and merits. There is no order as to costs.

I.P. Gupta
(I.P. Gupta)
Member (A)

4/9/92

Ram Pal Singh
(Ram Pal Singh)
Vice-Chairman.