

20

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.No.2646/90

Dated this the 6th Day of March, 1995.

Shri N.V. Krishnan, Hon. Vice Chairman(A)
Dr. A. Vedavalli, Hon. Member(J)

Shri Prem Kumar,
S/o Shri Rich Pal,
R.P., Fireman 'C', Jind Road,
New Delhi.Applicant

Advocate: Shri Ramesh Saraf (not present).

versus

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The D.W.E. (R),
Disciplinary Authority,
Northern Railway,
Board Office,
Baroda House,
New Delhi.
3. Union of India through
Ministry of Railways,
New Delhi.Respondents

Advocate: Shri Shyam Moorjani (not present).

O R D E R (Oral)
(By Shri N.V. Krishnan)

None appeared in this case for either party,
Hence this OA is being disposed of, after a perusal of
the record.

2. The applicant states that he is a Fireman 'C'
under the respondents. The grievance is that the
respondents have arbitrarily not taken him on duty and
have withheld his pay from the month of March 1990.

3. It appears from the sketchy application, that
a minor penalty proceeding\$ was initiated against him.
It ended in the imposition of a minor penalty by the
order dated 13.11.89 at Annexure-A. His next

(Signature)

increment raising his basic pay from Rs.900 to Rs.920, normally due to him on 1.1.1990, was withheld for one year, without postponing future increments.

4. The applicant states that he was asked to perform duty at a particular place. He requested that he should be informed about the exact location of the place. This was refused. This happened on 28.2.90. He went on leave in March 1990 to attend to his ailing mother. He was informed on 16.4.90 that the Foreman-C has sent his entire M.O.C. record to the D.M.E. The applicant was directed to meet the D.M.E. in uniform. However, he went in a simple dress. He was prevented from meeting the D.M.E. on 18.6.90. It is stated that the applicant had requested the respondents to treat him as being on leave, but the respondents did not reply.

5. Hence this application was filed on 19.12.90 with a prayer to issue orders or directions to the respondents to treat the applicant in service without any break and release his emoluments forthwith and issue directions to the respondents to show cause how they have taken the law in their own hands and withheld his salary.

6. A reply has been filed on behalf of the respondent No.2, D.W.E.(R), the disciplinary authority by A.P.O., New Delhi. That reply is equally sketchy. It is stated that the applicant was imposed a minor punishment on 1.1.90. He is a 'habitual offender' and has been warned and punished many times. He was assigned the job by the duty sheet prepared in the

Loco Shed. The question of guiding him to the spot of work does not arise. It is stated that the applicant was granted leave and 'allowed duty on 15.2.90', but he remained away from work. He was also given liberty to put up his grievance before the controlling officer Sr. D.M.E. but being indisciplined, he appeared in civil dress before that authority and hence was not permitted to meet that authority. It is stated that the applicant made a representation to join duty on 6.4.90 after long absence and also seeking regularisation of his service.

7. The respondents have not denied that the applicant is neither taken back on duty nor has been suspended nor it is their case that the applicant has absconded. We are of the view that it is open to the respondents to take any action against the applicant so long it is in accordance with law. If his salary has to be denied, that too has to be done only in accordance with law.

8. Considering these peculiar and special circumstances, a direction has to be issued to the respondents to deal with the applicant strictly in accordance with law.

We, therefore, direct as follows:-

(i) The applicant shall be permitted to join duty within one month from the date of receipt of this order.

(ii) If in respect of any period of service, the pay and allowances of the applicant is to be denied to him, it shall be done only after giving him a proper notice to show cause in this behalf within two months from the date of receipt of this order and after considering his representation. In case, no such notice is sent to him, the respondents shall pay all his pay and allowances in accordance with law within four months from the date of receipt of this order

(iii) It is also open to the respondents to initiate disciplinary proceedings against the applicant in respect of any acts of misconduct by him, provided that such proceedings shall not be ~~communicated~~ commenced after the expiry of four months from the date of receipt of this order.

9. OA is disposed of accordingly. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member(J)

N.V. Krishnan
6.3.85

(N.V. Krishnan)
Vice Chairman(A)