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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 101 of 1991

Date of decision: 24.4.1991

K.S. Pandey

Applicant

Vs.

Union of India

Respondents

PRESENT

Shri R.L. Sethi, counsel for the applicant.

Shri Ramesh Gautam, counsel for the respondents.

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Hon'ble Shri Justice Ram Pal Singh, Vice-Chairman (J).

Hon'ble Shri P.C. Jain, Member (A).

(Judgment of the Bench delivered by Hon'ble Shri Justice Ram Pal Singh, Vice-Chairman (J).)

As the pleadings are complete, the matter is finally heard.

2. By this application, under Section 19 of the Administrative Tribunals Act, 1985 (hereinafter referred as 'Act'), the applicant prays for directions to the respondents to invalidate the applicant and to superannuate him or take back the applicant on duty and also release his salary and allowances due to him from 21.4.89.

3. The applicant is a Sr. Signaller in the scale of Rs. 1200-2040 in the employment of the respondents from 29.3.55 and is presently posted at Delhi Main Railway Station. The applicant developed tuberculosis and other diseases in 1983. Hence, he prayed to the respondents to retire him on medical grounds prematurely as his date<sup>of</sup> birth is 5.7.1933. Hence, by application dated 5.9.88, he applied for his retirement on medical grounds before the respondents and also prayed for appointment of his son, Rajinder Kumar Pandey, on compassionate grounds to a suitable post. The condition of the applicant deteriorated and was ultimately admitted in the Central Railway Hospital on 21.4.89 and remained on the sick

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list thereafter with the Railway Health Unit after his discharge from the Hospital. The respondents vide their letter dated 26.2.90 informed the applicant that his request for invalidation cannot be agreed to. D.M.O., Delhi, by his letter dated 11.9.90, after full evaluation<sup>of</sup> his physical conditions, found the applicant fit for duty. Hence, the applicant reported for duty to Respondent No. 2 after being declared medically fit, but he was not permitted to join. Hence, he reported back to Respondent No. 1 who, by his letter dated 8.10.90, ordered that the applicant should be considered for duty. Since then, the applicant has not been permitted to join. Hence, this application.

2. The respondents on notice filed their counter and controverted the contents of the application and, inter alia, maintained that the applicant had remained absent from duty and that is why he cannot be taken back.

3. During the arguments, Shri Ramesh Gautam, learned counsel for the respondents, contended that the respondents have no objection in taking the applicant on duty, but he added that the applicant had been absent from duty without valid leave and hence departmental action has to be taken against him. The learned counsel for the applicant, Shri R.L. Sethi, consequently abandoned all his contentions raised in the OA and confined him<sup>Self</sup> only to the request that the applicant be permitted to join his duty and the salary and allowances due<sup>to</sup> him be given. In such a situation and on the face of the assurance given by the learned counsel for the respondents, we direct the respondents to permit the applicant to join his duties immediately. We further direct that the salary and allowances due to the applicant, according to rules, may be disbursed to him immediately so as to help the applicant

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financially. So far as the objection of the respondents that the applicant had remained absent from duty, the respondents can take departmental action separately against the applicant according to rules. But so far as the main prayer, contended at the Bar, of the applicant is concerned, it is allowed in the terms mentioned hereinabove. Consequently, this O.A. is partly allowed in the terms indicated above with the direction for the parties to bear their own costs.

*24/4/99*  
(P.C. JAIN)

MEMBER (A)

*24/4/99*  
(RAM PAL SINGH)

VICE-CHAIRMAN (J)