

(5)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. No. 2284/93

New Delhi this the 12th day of November, 1993

THE HON'BLE MR. J.P. SHARMA, MEMBER (J)

THE HON'BLE MR. B.N. DHOUNDIAL, MEMBER (A)

Natra Pal,
S/o Shri Ram Kumar Yadav,
Probationary Assistant Station Master,
Presently:
Under Zonal Training School,
Northern Railway,
Chandausi
(Shri B.S. Mainee, Advocate)

... Petitioner

Versus
Union of India : Through

1. The General Manager,
Northern Railway
Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.

3. The Principal,
Zonal Training School,
Northern Railway
Chandausi

.... Respondents

(By Shri H.K. Gangwani, Advocate)

4. Smt. Suresh Yadav, W/o Late Sh. Rishi Pal, H.No. 531 Pocket A/1,
Sec. VI, Rohini, Delhi.

O R D E R

Hon'ble Mr. J.P. Sharma, Member (J)

The applicant's elder brother late Shri Rishipal who died in a bomb blast while on duty at Pathankot, Punjab. The applicant was given appointment on compassionate grounds being the brother of deceased Rishipal. Rishipal is survived by his widow Smt. Suresh Yadav and minor Children. The applicant was sent for training for the post of ASM to Zonal Training School, Northern Railway, Chandausi. Smt. Suresh Yadav, aforesaid had complained that her consent for providing compassionate appointment

-: 2 :-

to the applicant was obtained by threat and mal treatment and so she has not given a free consent for appointment of the applicant. She, therefore, requested that either her son or she herself be considered for compassionate appointment. The respondents by the Order dated 18.10.1993 conveyed to the applicant while he was a trainee, ASM at Zonal Training School at Chandausi to submit his reply on the complaint of the widow of Rishipal within 24 hours failing which training would be terminated forthwith. The Principal of the Zonal Training School in compliance with the letter of DPO, New Delhi dated 12.10.1993 suspended the training of the applicant with immediate effect.

The applicant filed the present application aggrieved by the aforesaid order dated 18.10.1993 and 21.10.1993 and prayed for the grant of the relief that the aforesaid orders be quashed and the applicant be allowed to complete the training and participate in the examination which was to commence in the next week of the filing of the application. The application was filed on 27.10.1993.

The matter came before the Bench on 28.10.1993 and on the representation of the counsel of the applicant that the examination after the training is likely to be held in the next week i.e. in the first week of November 1993, and Interim direction was issued to the respondents that as the applicant is said to have complete his training as ASM trainee at Zonal Training School, Chandausi then the respondent No. 4 was directed to allow the applicant to appear in the examination of the said training course of ASM which the applicant has joined after getting compassionate appointment by the order dated 14.8.1992.

....3.

A notice was also issued to the Respondent.

Shri H.K. Gangwani, Counsel for the Respondent Nos. 1, 2, and 3 made over submissions about the maintainability of the application itself.

We heard the learned counsel for the applicant at length and after he made his submission and the order was being dictated in the open court, on 11.11.1993, the learned counsel prayed for adjournment to get further instructions from the applicant. This was opposed by the learned counsel for the respondent as such we gave the date 12.11.1993 for orders.

We do not find any ground for adjourning the case for another week when we have already heard the counsel of the parties on admission. The simple case is that the services of the applicant are not being terminated by the main orders but the respondents have entered into enquiry on the complaint of Smt. Suresh Yadav, the widowed, the sister-in-law of the applicant where she has said that under coercion and after mal-treating her and threatening her, her consent was obtained by Shri Natra Pal for his appointment on compassionate grounds. If this application is admitted the enquiry undertaken by the respondents shall stand awaited. The applicant will not suffer any loss as there is no order terminating his services. The application, therefore, does not make out any grievance and only ^{is referring to} certain allegations the explanation of the applicant was called. By the Impugned Order he was asked to furnish his reply within 24 hours threatening that if he did not do so his training shall be terminated. Since it is averred in the application that after training the examination was to be held in the first week of November 1993 and the applicant got an interim relief in that regard

so nothing survives for grant of further relief to the applicant. The learned counsel for the applicant was not aware whether the applicant has undertaken the said examination or not. However, since it was alleged in the application that the said examination was to be held in the first week of November, 1993 the permission was granted as an interim relief. If the examination has not been held, or the applicant did not appear of his own, still there would be no grievance to the applicant. After the applicant was not disallowed to take the examination in spite of the order dated 28.10.1993, and the examination was held in the first week of November, 1993 then that grievance the applicant can assail by miscellaneous petition or on a different occasion by another application if so advised.

We find that the contention of the learned counsel for the respondents that by admitting this application the pending enquiry against the applicant would be shelved has force.

In view of the facts and circumstances the present application does not make out any prima facie case for admission and the application, therefore, dismissed in limini with liberty to the applicant to assail his grievance if any after any adverse order is passed effecting his service career. No costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal) 12/11/93
Member(A)

J.P. Sharma
(J.P. Sharma) 12/11/93
Member(J)

Mittal