

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 20th day of May, 2003.

Original Application No. 321 of 1996.

C O R A M :- Hon'ble Mr. S.K. Agarwal, Member- A.
Hon'ble Mrs. Meera Chhibber, Member- J.

Ram Chandra Patel, KA/P.C/8882, S/o Sri Moti Lal,
Khalasi-4th class employee in the office of
Chief Workshop Manager (P), NE Rly., Gorakhpur.

Present Address- Vill. and Post- Motiha, Distt. Allahabad.

.....Applicant

Counsel for the applicant :- Sri B.K Singh (Absent)
Sri N.P. Singh

V E R S U S

1. North Eastern Railway through the General Manager,
Gorakhpur.
2. Chief Workshop Manager (P), N.E Rly.,
Gorakhpur.

.....Respondents

Counsel for the respondents :- Sri V.K. Goel

O R D E R (Oral)

By Hon'ble Mr. S.K. Agarwal, Member- A.

Applicant has approached this Tribunal by seeking
direction to the respondent No. 2 to allow the applicant
to join his duty forthwith and further direction to the
respondent No. 2 to decide the representation in accordance
with law.

2. Brief facts of the case are that the applicant was
appointed as 4th class employee and was posted in the
office of Chief Workshop Manager (P), N.E. Rly., Gorakhpur.
He had assumed his duty on 10.07.1976. However, he worked
only ^{for} 20 days . As on July 31st, 1976 (After Noon)(Saturday)
he left for his home village at Allahabad where he fell

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sick and was unable to go back at Gorakhpur. On 05.08.1976 applicant sent his application supported by Medical Certificate under registered cover to grant him leave w.e.f 02.08.1976 till his recovery.

3. As per the O.A, applicant again sent an application on 30.03.1987 under registered cover to the authorities concerned to extend his leave. Thereafter he did not report for duty for the last 20 years. On 03.07.1995, as stated by the applicant in his O.A, he received letter dated 21.06.1995 under registered cover from respondent No. 2 directing him to present in person on his duty and submit explanation for absenting himself from duty since long without any intimation.

4. It is further stated by the applicant in the O.A that vide his application dated 05.07.1995 he sent under registered cover letter to the respondents that he would resume his duty as soon as he received medical certificate from his treating doctor.

5. Sri V.K. Goel, learned counsel for the respondents has drawn our attention to para(b) of the counter reply in which he had stated that the applicant had left Gorakhpur on 31.07.1976 for his village in Allahabad without station leave permission. It is further stated that no leave ~~has~~ either medical or otherwise has ever been sanctioned to the applicant. Respondents counsel has also drawn our attention to para(c) that note (II) to parageapf 732 of the Indian Railway Establishment Code provides that where a temporary railway employee fails to resume duty on the expiry of the maximum period of extra ordinary leave, he shall be deemed to have resigned his appointment and shall accordingly cease to be ^{has} a railway employee. Counsel for the respondents/further submitted that it appears that

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the applicant himself manipulated a letter dated 21.06.1995 to be issued under the signature of the then APO directing the applicant to present in person for duty. It is further submitted by the counsel for the respondents that the entire service record of the applicant is missing w.e.f 11.08.1995 i.e. immediately after issuance of the aforesaid alleged letter dated 21.06.1995. All efforts ~~made~~ made by the respondents to trace file of the applicant containing service records have failed. The respondents have reason to believe that the file containing service record of the applicant misplaced under the active connivance of the applicant. Learned counsel for the respondents has further mentions that in all the applicant has worked for 20 days i.e. from 10.07.1976 to 31.07.1976 and it is only after 20 years ^{later} he brought new facts that the respondents had issued him a letter asking him to join duties as he was absent for a very long time. He has further submitted that thus it is not ^{a fact for the respondents} ~~to the applicant~~ for considering him again for appointment as through all these years he has never reported back for duty.

6. We have heard Sri V.K. Goel, learned counsel for the respondents and gone through the facts stated by the applicant in his O.A.

7. The facts are not disputed that the applicant had worked only for 20 days in July 1976 and ~~he~~ left over for next 19 years before he brought the alleged letter dated 11.08.1995 issued by the respondents to him to join the duty. In any case, in our opinion, this does not give any support for considering his claim. Moreover, leave cannot be claimed as a matter of right and the respondents have mentioned that no leave or E.O.L or station leave permission

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was obtained by the authorities before leaving the Headquarter.

8. Considering the above facts, in our opinion, the O.A has no merit and the same is accordingly dismissed.

9. There shall be no order as to costs.



Member- J.



Member- A.

/Anand/