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(11)

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 31<sup>st</sup> day of September, 2003.

QUORUM : HON. MR. JUSTICE R.R.K. TRIVEDI, V.C.  
HON. MR. D. R. TIWARI, A.M.

O.A. No. 1409 of 1997

Mohd. Afsar Khan S/O Sri M.S. Khan R/O Railway Quarter  
Fafund, P.O. Bibiyapur, District Auraiya.....Applicant.  
Counsel for applicant : Sri B.N. Singh.

Versus

1. Union of India through Divisional Railway Manager, N.R.  
Allahabad Division, Allahabad.
2. Senior Divisional Electrical Manager (TRD), N.R.,  
Allahabad Division, Allahabad.
3. Assistant Electrical Engineer (TRD), N.R. Etawah.
4. Section Engineer (O.H.E.), N.R. Fafund, District Auraiya.  
..... Respondents.

Counsel for respondents : Sri A. Sthalekar.

ORDER

BY HON. MR. D. R. TIWARI, A.M.

By this O.A. filed under section 19 of A.T. Act, 1985, the applicant has prayed for quashing the action of the respondents for forcing him to take charge of stores and payment of full salary for the days of illegal suspension.

2. The facts, in brief, are that the applicant was an Assistant Electrical Driver <sup>in</sup> Railways and he was declared medically unfit for the post and was declared fit in <sup>Category</sup> C-1 by the Chief Medical Superintendent, N.R., Allahabad (Annexure A-1). By way of alternate employment, he was posted as Senior Clerk under Section Engineer O.H.E./Phafund (Respondent No.4) in the scale of Rs.1200-2040 by order dated 4.3.1997 (Annexure A-2). He joined on 8.3.1997.

3. The applicant has alleged that the respondent No.4 forced him to take charge of the stores and he was forced

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to give in writing that he has taken over charge of the stores which he had to give in writing (Annexure A-3). He has further alleged that one key of the stores was with the respondent No.4 and store was opened and goods taken out under the direction of respondent No.4. He brought all these to the notice of Asstt. Electrical Engineer (TRD), N.R., Etawah (Annexure A-4). However, the respondent No.3 took no action about it.

4. The applicant has further alleged that he was not given break down allowance nor food allowance when he was on duty on 23.11.97 when a derailment of goods train took place at Phaphund station. Though, it was weekly off day as it was Sunday, the respondent called him for duty and he complied with. Since he left station for home for meals, the respondent suspended him. However, the suspension was revoked on 27.11.1997 (Annexures A-5 & A-6).

5. The applicant's main grievance centres round his posting as incharge of store in addition to his duties as office clerk. He states that he has to maintain and prepare salary bill, T.A. bill, Privilege Pass, P.T.O. and leave records etc. for more than fifteen employees working in that Depot. As office clerk, has to attend the Divisional office on certain days in a month, he is supposed to visit Delhi office also. He clearly states that to discharge the store duties by office clerk is practically impossible.

6. He has further contended that his case is squarely covered by Chhedi Lal's case decided by Allahabad Bench on 13.5.1997 (Annexure A-7). In that case, the applicant refused the store duty and the Tribunal held the action of the respondents as illegal.

7. The respondents, on the other hand, have very strongly resisted the claim of the applicant. It is stated that the applicant was never forced to take charge of the store. As per the practice, the applicant took the charge

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of the store from the out-going Head clerk Sri R.D. Goswami after making a detailed list of items, ledgers, advice notes etc. (Annexure CA-1). The applicant joined on 8.3.97 and took the charge of stores on 7.4.97 i.e. almost after a month, the time allowed to him to understand the work of the Depot. Para 10 of the counter affidavit clearly denies that the respondents ever had a key of stores. The Respondent No.4 never opened the stores in absence of applicant. It has been further clarified that there is no night shift in O.H.E. Depot. It is only in emergent cases i.e. breakdown/accident that the staff is called in to render their services. On 23.11.97, an accident involving a goods train took place and the staff were directed to reach the site. It was in such a situation that the applicant was called. After opening the stores at 2000 hrs., the applicant went back to his house. He refused to perform duty which forced Respondent No.4 to suspend him which was revoked after 4 days. There is no relevance in linking the suspension with the taking over the charge of stores.

8. With regard to the payment of breakdown allowance etc., the respondents have stated that on the crucial date, he did not do any duty as he left the Depot disobeying the orders of the Respondent No.4. Hence, the question of giving him breakdown allowance did not arise.

9. We have carefully considered the rival contentions of the parties and perused the pleadings.

10. The main question which falls for consideration and decision is whether the senior clerk can be entrusted to look after the duty of stores of Depot in addition to his normal clerical duties ? The reply is certainly in the affirmative. The contention of applicant that he has too much office work to do and he cannot handle the store, is

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incorrect. In the Railway system of TRD, the staff has been distributed in small field formations spread over the entire division. The job of the clerk is to look after the establishment matters like salary bills and Pass/PTO and maintenance of stores etc. The supervisor alongwith staff goes out in the field for maintenance work and supervisor has very less time to spend whereas a clerk has to devote most of his time in office work.

11. It is stated that there is no separate category of ministerial staff to look after the stores. These categories have long since been abolished and the present staff (jr. clerk/senior clerk/head clerk) are supposed to do all work of the establishment as well as other correspondance relating to stores. Stores and office are adjacent to each other in the same building. This practice is being followed in all other depots of the Division. It is the exigency of administration to decide the duty and it is never the will of the employee which will determine the allotment of work. EVEN THE applicant is aware of the abolition of post of store issuer/store clerk which is evident from para 5 of the rejoinder affidavit.

12. About the applicant's strong reliance on the O.A. No.803/94 (Chhedi Lal Vs. U.O.I.) decided by the Division Bench of Allahabad, it may be stated that the major issue in that case was the punishment awarded to the applicant after he refused to look after the work of stores. In t-his case, the issue is different. The applicant was never punished. The applicant's case here is that he is not supposed to handle stores duty. Moreover, he further stated that he has much more work to do and would be difficult for him to do both the work. The decision in Chhedi Lal (Supra)

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depended on a circular letter of G.M. (P) dated 24.10.75. The sum and substance of the letter was that the office clerk could not be utilised as stores clerk and could not be made custodian of stores. The respondents have made vigorous efforts to trace the letter after that decision. However, they have failed to lay hand on that letter. The applicant, has also not made any averment in the O.A. except quoting the order of Chhedi Lal case (Supra). It appears that the letter may not be applicable in the present case. The respondents have clearly stated in para 22 of the counter that at that time, there was a post of store man, however, with the reduction in staff and the emphasis on economy instructions, these categories have been merged and some of them abolished altogether with the decentralised system of working wherein there is very small staff in the depot. It would be sheer wastage of employee that just for looking after the store, a staff is engaged. Even the applicant, in para 5 of the rejoinder, has accepted this fact.

13. In view of the position, discussed above, we may safely conclude that posting of a senior clerk to look after stores, in addition to his clerical duties, is a matter, which is purely within the domain of administration. The only issue which is left for decision is about payment of his salary during the period of his suspension. The respondents have stated in para 28 that the disciplinary authority realised that it was the first mistake of the applicant and decided to revoke the suspension within a period of four days. The suspension period has been regularised and the payment is being made for that period.

14. In the result, the O.A. is devoid of merit and is accordingly dismissed.

No order as to costs.

*A.M.*  
A.M.

*V.C.*  
V.C.