

AF

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALLAHABAD

....

Registration T.A. No. 663 of 1987

Hafizullah Khan ... Applicant

vs

Union of India and ors... Respondents

Hon' Mr P.S. Habeeb Mohd, A.M.

Hon' Mr J.P. Sharma, J.M.

4/5/90

(By Hon' Mr J.P. Sharma, J.M.)

Present: None for the applicant.

Shri A.V. Srivastava counsel for the res

The petitioner Hafizullah Khan while working as Assistant Station Master at Motiganj Station, Lucknow, is said to have been victim of dacoity at the relevant time, and was incapacitated. He remained under medical treatment and on recovery, he was declared fit for the medical category B-1, which he did not like to opt. He filed the present writ petition before the Hon'ble High Court, Allahabad Bench on 2.4.80 and sought the following reliefs :

- " (i) issue a writ, direction or order in the nature of mandamus commanding opposite parties to post the petitioner in the time pay scale of Rs.425 - 640 with all the benefits due to him with effect from 11.2.78;
- (ii) issue a writ, direction or order in the nature of mandamus commanding the opposite parties to pay compensation for the total loss of the left eye to which the petitioner is entitled on the basis of the certificate issued by the Divisional Medical Officer, N.E. Railway, Gonda;*
- (iii) issue a writ, direction or order in the nature of

mandamus commanding the opposite parties to readjust the petitioner's leave on average pay and the leave on half average pay which was illegally and arbitrarily deducted during the period when he was under going medical treatment;

- (iv) issue any such other writ, direction or order as may be deemed fit in the circumstances of the case;
- (v) award the costs of the writ petition to the petitioner.

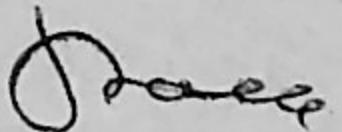
2. In support of the writ petition the petitioner has filed annexures regarding the injury sustained etc. The said writ petition was admitted on 8.4.80 and the notices were issued to the respondents. However, nothing transpired in the proceedings till the enforcement of Administrative Tribunals' Act, 1985, when the matter stood transferred to the Tribunal and registered as T.A. No. 663 of 1987 under section 29 of the Administrative Tribunals' Act, 1985.

3. On 25.8.89 the respondents Union of India filed the counter affidavit and subsequent to that time~~s~~ and again the opportunity was given to the petitioner/ applicant to file rejoinder, but that opportunity has not been availed of nor the counsel who is appearing on behalf of the applicant took any adjournment yesterday when the matter came up for hearing. Today also, the applicant or his counsel is not present.

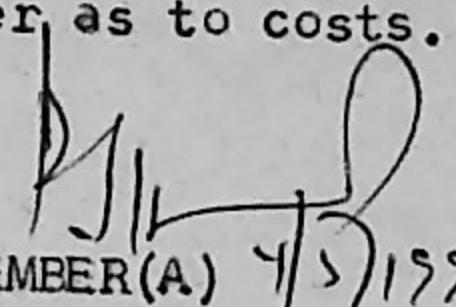
4. The learned counsel for the respondents Shri A.V. Srivastava stated in the Bar that the present writ petition has become ~~is~~ almost infructuous, as the applicant out of the Court has been given the post of his choice which he accepted and also he has been given two promotions in the hierarchy of the post of Senior

Commercial Inspector. The learned counsel for the respondents referred to paras 4, 9, 10, 11-A and 11-B of the counter affidavit and a perusal of the same goes to show that the applicant has been accommodated to his liking. Sri Narsingh Prasad, Assistant Personnel Officer, N.E.R., Gorakhpur has sworn this position given out in the counter.

5. After going through the record and finding that the applicant's counsel was not appearing for a long period, it appears that the applicant is not interested any more in pursuing this matter and purposely, as he has been granted relief of his choice by the respondents. We, therefore, find that this writ petition has been infructuous and is, therefore, dismissed without any order as to costs.



MEMBER (J)



MEMBER (A) 4/5/1990

(sns)

May 4, 1990

Allahabad.