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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No.530 of 1987

Jasmat Singh Applicant

Versus

Union of India & Others Respondents.

Hon. Ajay Johri, A.M.

This is an application received under Section 19 of the Administrative Tribunals Act XIII of 1985. The applicant who was working as a Mason Khallasi under I.O.W. Mathura has requested for a direction to be issued to the respondents to treat his service as continuous and to give him duty and pay his salary and emoluments as per rules.

2. The applicant who was originally a Gangman working under the respondents met with an accident resulting in injury to his eye in 1968. There was a dispute regarding compensation which was decided in his favour with certain strictures and penalty on the I.O.W. under whose charge the applicant was working. When the I.O.W. (Respondent No.5) became AEN he started harassing the applicant. Again in a matter of suspension allowance for the period he was placed under suspension ^{it} was decided by the Prescribed authority in his favour. Thereafter the applicant was taken up in a disciplinary case in 1984 and given a punishment of reduction for a period of two ^{years} ~~of~~ ^{years}.

3 ✓ The applicant was thereafter sick as he had developed T.B. during the period he was placed under suspension. Since his papers were not forwarded by the AEN to the medical authorities he was discharged from the Railway Hospital and had to undergo treatment of a private medical Doctor and remained under treatment from January, 1985 to February, 1987 and therefore could not join duty at Agra. When he became fit he approached the Assistant Engineer Mathura on 24.2.87 for being given a letter for joining duty at Agra and the applicant was issued a letter. When he reported to the Agra office, he was not adjusted because there was no vacancy. He therefore moved another application before Assistant Engineer Mathura but no orders were given. He sent a representation on 8.4.87 to the higher authorities but that representation has also not been disposed of.

3. In their reply the respondents have denied that any penalty was awarded by the Prescribed Authority for the late payment or any order was passed for payment of any penalty for delayed payment of suspension allowance as stated by the applicant. In 1983 another chargesheet was issued to the applicant and in April, 1984 he was imposed the punishment of removal from service after proper enquiry. The applicant has concealed this fact. He had filed the joint appeal against two

orders - one involving in his reduction and the other involving his removal from service. These appeals were decided and taking a lenient view, punishment of removal was reduced to that of reduction for a period of five years and the applicant was transferred to Agra. They have further said that inspite of the order given in Jaunary, 1985 the applicant never appeared before the concerned authorities for joining duty till 23.2.1987. He was not taken on duty at Agra because he had joined after lapse of two years from the date of the orders. The applicant also never reported to the Senior DEN for further directions.

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4. In his replication in paragraph 12, the applicant has further said that he remained ill for more than two years and when he was not given duty when he reported back in February, 1987 ²⁴ ~~and~~ he had met the Divisional Engineer Jhansi but since nothing materialized he had made a representation to the higher authorities which is still undisposed of.

5. I have heard the learned counsel for both the parties. The contentions raised by the learned counsel for the applicant were that the applicant reported for duty in February, 1987 but he has not yet been given duty and after the order was given in 1985 he

was genuinely sick and therefore he could not report for about two years time. On behalf of the respondents it was said that since he had represented on 8.4.87 and filed this application on 2.6.87, the application was premature. He should have awaited to get a decision on his representation. It was further submitted at the bar that in case the applicant reports for duty his case will be sympathetically considered.

2 ✓
6. The applicant has prayed for only two reliefs that his services may be treated as continuous and that a direction may be issued to the respondents to give him duty. The submissions made on behalf of the respondents are that his representation is pending and it could not be considered because he has filed this application before this Tribunal. The present status of the applicant's case is that, ^{as alleged by} ~~excessively~~ ~~to~~ him, he was suffering from T.B. and he remained sick for about two years. He could not continue with Railway Hospital because his superior authorities did not forward his medical papers to the hospital and therefore he had to seek private medical attention. May that be as it is, the applicant being a permanent employee of the respondents and his services having not been terminated naturally continues to be in service and it is for the respondents now to issue

necessary orders to enable him to join duty either at Mathura or at Agra or any place wherever they may wish to post him. They have also to decide the period of his absence from the date of his removal to the date of the modification of the order ^{or by the appellate order} and to the date he reports for duty. The application can be disposed of with the directions that the respondents will, within a period of two months from the receipt of this order, decide the applicant's representation and give him necessary duty regularising the period of absence according to rules. The application is disposed of accordingly with no order as to costs.

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Member (A)

Dated the 3rd Aug., 1988.

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