

THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH-ALLAHABAD.

D.A. No. 1119 of 1987.

Sarjoo Prasad..... Applicant.

Versus

Asstt. Engineer-I, N. Railway-Allahabad..... Respondents.

Hon'ble Mr. Justice U.C. Srivastava- V.C.  
Hon'ble Mr. K. Obayya - A.M.

(By Hon'ble Mr. Justice U.C. Srivastava-V.C.)

The applicant who was working as Gang Man in Northern Railway was declared medically unfit on 25.3.87. Thereafter no duty was given to the applicant nor even ~~in~~ the category in which he should have been placed after medically unfit for the category in which he was working. He made various representations in this behalf and ultimately filed this application, praying that he may be allowed to perform the duties and respondents may also be directed to arrange payment of salary and allowances for the period 1.8.86 to the date of resumption of his duty.

2. The respondents have stated that the applicant was aware that he was only fit for job of a "Sedentary nature" with glasses on and as such no job was available, he could not be absorbed. He was paid till the date his leave was due till 25.1.87. When a job was available, he was informed and since he failed to turnup for duty, the respondents cannot be held responsible. The order which has been produced before us also indicates that an order was issued for taking him back in service as Heater man/ Temperature Reader ~~in~~ the same Gang.

3. Learned counsel for the respondent contest this application and states that ~~now~~ it has become infructuous. Learned counsel for the applicant contended that the order was not communicated to him earlier and with the result he was deprived of ~~the~~ ~~deprived of~~ the salary w.e.f. 15.1.88 to 9.3.1989 as such salary may be given to him. The applicant was given an appointment and if <sup>he</sup> got the appointment later on, he cannot claim the salary during which he did not work at all. It is not the case that he wanted to work and the respondents denied him to do working. Now the applicant has

having been absorbed in service, he can be treated in service continuously, but as far as the claim for salary is concerned that does not bear any scrutiny. Accordingly with the observations regarding continuity of service, a prayer for salary in this behalf is rejected and the application in respect of other reliefs shall be deemed to have been dismissed having become infructuous.

*R. Subbarao*  
Member (A).

*L.*  
Vice Chairman.

Dt: Aug 10, 1992.

(DPS)