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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 17 th day November 1995

Original Application No.1100 of 1988

QUORUM:-

Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. T.L. Verma, J.M.

Mahesh Kumar

Son of Late Shri Har Das Babu

Resident of 14, Abbott Ganj,

Sipri Bazar,

District-Jhansi

(By Shri M.P. Gupta, Advocate)

..... Applicant

Versus

The Union of India

Through the General Manager

Central Railway,

Bombay V.T. and

Another.

(By Shri V.K. Goel, Advocate)

..... Respondents

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O R D E R

By Hon'ble Mr. S. Das Gupta, A.M.

Through this Application, under Section 19 of the Administrative Tribunals Act, 1995, the Applicant has sought a direction to the Respondents to pay to the Applicant all his dues of pay and allowances for the period from 1-11-1986 to 16-6-1987 and to give interest at bank rate on the said arrears.

2. The Applicant's case is that he was transferred from Bombay to Jhansi by an order dated 21-11-1986 issued by the Headquarters Personnel Branch. He reported at Jhansi on 25-11-1986 in compliance with the order on being relieved from Bombay on 24-11-1986. It is alleged that he was not permitted to join duty at Jhansi but was directed to return to Bombay for further orders by the letter dated 28-11-1986 issued by the D.R.M.(S&T) Jhansi. The Applicant went to Bombay and reported there for further orders but no orders were given to him and he was directed to go back to Jhansi and report to the D.R.M. Central Railway, Jhansi. The Applicant complied with the direction but again he was not allowed to join his post. He made several representations but to no avail. Thereafter, the Applicant was directed to report to Divisional Telecommunication Inspector (M.W.) Jhansi. The Applicant complied with this order on 10-6-1987. It is alleged that he was not paid any salary and allowances for the period 1-11-1986 to 16-6-1987. Hence this Application.

3. The Respondents have filed a

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xxxxxxxxxx written reply in which the fact that the Applicant was transferred from Bombay to Jhansi and that he reported for duty at Jhansi on 25-11-1986 after being relieved from Bombay, has been admitted.

It has, however, been averred that the Senior DSTE Jhansi had ordered the Applicant to return to Bombay by the letter dated 28-11-1986. He was also issued a first class duty pass which was received by him.

The Applicant, however, did not return to Bombay nor was he at Jhansi. His whereabouts were not known. On 27-1-1987, he gave an application that he should be posted against a vacancy of Shri G.B. Singh.

However, he did not produce any letter from Bombay whereby he was directed to report to Jhansi for duty. Hence, a letter was sent to Deputy CST (Telecom) Headquarters Bombay for direction regarding posting of the Applicant. It is alleged that the Applicant has chosen to remain absent from duty from 28-11-1986 of his own accord without applying for leave of any kind and was thus absent unauthorisedly from service.

He should have reported back at Bombay as directed and obtained necessary direction in writing from Bombay for reporting back at Jhansi.

3. The Applicant has filed a rejoinder affidavit reiterating the contention already made in the Original Application. He has also denied that he was unauthorisedly absent. He has stated that when he was not allowed to join duty at Jhansi, he had sent a registered letter to the Headquarters Office requesting the Chief Personnel Officer, Bombay to direct the local officers at Jhansi to post him vice Shri G.B. Singh and when no reply was received

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to the same, he sent a telegram to the Chief Personnel Officer on 4-12-1986 drawing his attention to the letter dated 28-11-1986. On the same day he fell ill and was under the treatment ^{of} Railway Doctor at Jhansi upto 17-12-1986. On being declared fit he went to the office of D.R.M. (P), Jhansi and came to know that the Chief Personnel Officer, Bombay had by his telegram dated 16-12-1986 directed the DRM (P) Jhansi to post the Applicant at Jhansi vice Shri G.B. Singh but no action for compliance with the direction and order of the Chief Personnel Officer Bombay was taken and the Applicant was not given posting order.

4. We have heard the Learned Counsel for both the parties and gone through the pleadings on record.

4. The Applicant was admittedly transferred from Bombay to Jhansi and admittedly in compliance with a valid order of transfer, he had reported at Jhansi to take over charge on 25-11-1986. It is also admitted that he was not allowed to take over charge at Jhansi but was directed to return to Bombay. There is not a whisper in the counter affidavit as to what was the reason for which the Applicant could not be accommodated at Jhansi and why he was directed to report back at Bombay. The fact, however, remains that although the Applicant had reported at Jhansi in compliance with a lawful order, he was made to run from pillar to post to join duties. There are divergent versions as regards what the Applicant did during the intervening period from the date of his initial reporting at Jhansi and

the date on which he was finally allowed to joint at Jhansi. We see no reason to enter into adjudication of such disputed facts. We are of the view that the Applicant was unnecessarily put to harassment by the authorities at Jhansi and he was denied salary during the intervening period. If the authorities at Jhansi had any problem in accommodating the Applicant, they should have taken the matter with Bombay and got the order of transfer rescinded or amended but until such time as the order was not rescinded or amended, the Applicant should have been allowed to join at Jhansi and perform his duties.

6. In view of the foregoing, we are of the view that the impugned order dated 18-9-1987 by which the Applicant was informed that he would not get any salary during the intervening period is patently arbitrary and illegal. The order is, therefore, quashed. We direct the Respondents to pay to the Applicant full pay and allowances for the intervening period with an interest @ 12% per annum from the date on which payment was due till the date of actual payment thereof. This direction shall be complied with within a period of two months from the date of this order.

7. We also considered that this is a fit case for award of costs to the Applicant and we direct that the Applicant shall be paid by the Respondents the costs of this Application which we estimate at Rs. 1000/- (Rupees one thousand only).

Ran/

J. K. Sharma
Member (J.)

W. P.
Member (A)