

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

Allahabad : Dated this 21st day of November, 2000
Original Application No.37 of 1993

CORAM :-

Hon'ble Mr. Justice RRK Trivedi, V.C.

Hon'ble Mr. VK Majotra, A.M.

Dinesh Chand Agrawal

Son of Shri R.B. Agrawal,

Resident of 163, Ganesh Madiya, Bara Bazar,
Jhansi.

(Sri RK Nigam, Advocate)

.Applicant

Versus

1. Union of India through General Manager,
Central Railway, Bombay V.T.

2. Dy. Chief Engineer(Construction),
Central Railway, Jhansi.

3. Divisional Railway Manager,
Central Railway, Jhansi.

(Sri G.P. Agrawal, Advocate)

.Respondents

O R D E R (O_r_a_l)

By Hon'ble Mr. Justice RRK Trivedi, V.C.

By this OA the order dated 10/17-3-1989 has been challenged by the applicant whereby he has been refused salary for the period 13-1-1984 to 6-11-1987. The claim of the applicant is based on the direction of this Tribunal given by the order dated 26-8-1987 in OA No.673(T) of 1986. The direction was to the following effect:-

"For the reasons given above, we come to the conclusion that the order passed by the defendants is illegal and void and must be quashed. The defendants are accordingly directed to give another opportunity to the plaintiff to get himself medically examined for

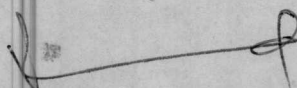


a lower category post and if he is found suitable, he may be offered the job for which he is found suitable and shall also pass suitable order regarding his reinstatement and payment of emoluments for the intervening period in accordance with the relevant rules".

2. In pursuance of the aforesaid order the respondents passed order on 21-11-1987 reinstating him as T.S. Khalasi under IOW(C) in the same salary, grade and capacity as was being given to him on 12-1-1984. However, ^{claim} for payment of emoluments for the intervening period was not ^{accepted} ~~made~~, as review applications were pending in this Tribunal (Annexure-1).

The respondents have stated that the applicant is not entitled for the ^{wages} ~~period~~ during the intervening period i.e. from 13-1-1984 to 06-11-1987 as he was busy in studying and in completing three years Diploman Course in Mechanical Engineering in Government Poly-technique, Jhansi and he did not turn up to work under the respondents. However, this period was treated as leave without pay under Rule 2044 (FR-54) of IREM. Aggrieved by the said order the applicant has approached this Tribunal again.

3. Learned counsel for the applicant has submitted that since the Tribunal directed payment of emoluments for the intervening period ^{and a} the direction has become ^{applicant is entitled to payment} final. However, we are not convinced with the submission made by the counsel for the applicant. The Division Bench direction given on 26-8-1997 clearly observed that the payment of emoluments for the intervening period shall be in accordance with the relevant rules. Rules permit payment of wages only against work and if work has not been done, the applicant cannot claim any emoluments/wages. We do not find any illegality



in the order. The claim of the applicant is inadmissible
~~both~~ ⁱⁿ law ^{and} ~~in~~ in equity. The application has no
merit and is dismissed accordingly. There shall be
no order as to costs.

V. Mahesh

Member (A)

R

Vice Chairman

Dube/