

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 29TH DAY OF AUGUST, 2000

Original Application no.31 of 1994

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.BISWAS, MEMBER(A)

Ram krispal, Son of Late Sri nand Lal
R/o Village Budhaiyapur, Post Korai,
District Fatehpur.

... Applicant

(By Adv: Shri Satish Dwivedi,Shri Anil Dwivedi)

Versus

1. Divisional Rail Manager,
Northern Railway, Allahabad.
2. Assistant Engineer(Special)
Northern Railway, Aligarh
3. Permanent Way inspector,PQRS
Manda Road, Allahabad.
4. Union of India through the General
Manager, Northern Railway,
Baroda House, New Delhi.

... Respondents

O R D E R(Oral)

(By Hon.mr.Justice R.R.K.Trivedi,V.C.)

By this application u/s 19 of the A.T.Act, 1985 the applicant has challenged the order dated 20.10.1992 by which he has been removed from the service for unauthorised absence. It has been stated in the order that as the show cause notice dated 19.8.1992 was not replied on expiry of one month there was a deemed resignation. In response to the impugned order dated 20.10.1992, applicant submitted his reply, a copy of which has been filed as (Annexure-7). In his reply he admitted the receipt of the letter dated 19.8.1992 and has also stated that he submitted his reply to the said letter. In this reply it has also been stated that he requested for assignment of duty but it was not given. In the reply it has been further stated that applicant was transferred from Banda to Aligarh but he was not allowed to join duty at Aligarh and was again returned to Banda. He several times approached the authorities at Aligarh for duty but he was not allowed and every time he was sent back

to Bhanda for which he has referred to a Pass No.431111. From the reply it appears that applicant replied the notice dated 19.8.1992 and also submitted an explanation for his absence with the help of documentary evidence. In the circumstances, the deemed resignation could not be accepted.

The learned counsel for the applicant relied on an order dated 21.11.1989 passed by this Tribunal in TA no.971/86. In this order the question of deemed resignation had been discussed in detail. The Tribunal ^{observed} ~~held~~ that the provisions of Rule 732(1) ^{which has} ~~been~~ held to be violative of Article 14 & 311 of the Constitution of India. The order passed on deemed resignation was not accepted, We are in respectful agreement. ^{the} ~~with~~ order dated 20.10.1992 is actually vague and does not clearly specify the entire circumstances. In the circumstances, the order cannot be sustained. The application is accordingly allowed. The order dated 20.10.1992 is quashed. The applicant shall be reinstated on duty though he will not be entitled for back wages. No order as to costs.

S. Dinesh

MEMBER (A)

R. J. D.

VICE CHAIRMAN

Dated: 29.8.2000

Uv/