

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1386/1995

WEDNESDAY, THIS THE 18TH DAY OF DECEMBER, 2002

HON'BLE MR. GOVINDAN S. TAMPI .. MEMBER (A)

HON'BLE MR. A.K. BHATNAGAR .. MEMBER (J)

Ram Kripal,
S/o Ram Prasad,
R/o 133/206, Dhekanapurwa,
Kanpur Nagar. Applicant

(By Advocate Shri B.N. Singh)

Vers

1. Union of India through
the General Manager,
Northern Railway,
Baroda House, New Delhi.

2. Divisional Rail Manager,
Northern Railway,
Allahabad Division,
Allahabad.

3. Divisional Engineer,
Northern Railway,
Fatehpur.

4. Chief Permanent Way Inspector
(P.Q.R.S.), Northern Railway,
Fatehpur.

Respondents

(By Advocate Shri Avnish Tripathi)

O R D E R

Hon'ble Mr. Govindan S. Tampi, Member (A) :

Action of the respondents in denying the applicant to perform his duties and collect salary accordingly is under challenge in this O.A.

2. Heard Shri L.M. Singh, learned proxy counsel for Shri B.N. Singh for the applicant and Shri Avn Pandey, proxy counsel for Shri Avnish Tripathi.

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3. The applicant, who was appointed as a casual Gangman on 14.3.1974 under the Permanent Way Inspector, Kanpur, was transferred to Itawah where he worked upto 16.9.1982. However, from 17.9.1982, he was not permitted to discharge his duties and salary was also not paid to him. Thereafter, he had to file a number of cases before the Labour Court to get his salary which was granted to him only on the decision of the Labour Court. However, in one case, he was denied the same by the said authority and also Additional District Judge, Kanpur, which led him to file O.A. No.740/1989, which stayed the order of the District Judge. The applicant was thereafter directed to be present before the Chief Permanent Way Inspector, Itawah, which he did. He filed his joining report and was directed to meet one Shri Rakesh Chandra, who did not take any action thereafter. Thereafter, he was making efforts time and again to meet the authorities for rejoining duty and this included even attempts by him with the Divisional Engineer, Railway Minister, etc., but the same has not succeeded. Hence, this O.A.

4. According to the applicant, the action of the respondents in not permitting him to join duty and collect salary was discriminatory and arbitrary. This is also against constitutional guarantee under Articles 14 and 16. The applicant further points out that he had not been given any charge sheet or dealt with by any penal proceedings, but, still he is being denied the permission to rejoin duty and collect salary as is due. He therefore seeks the intervention of the Tribunal to grant him justice. Pleadings by the applicant have been reiterated by Shri L.M. Singh, during the oral submissions before us.

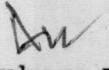
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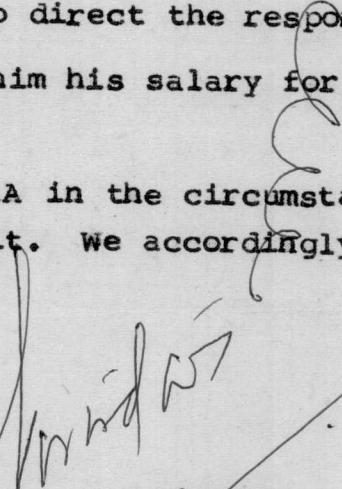
5. On behalf of the respondents, it is pointed out that the applicant's allegations are false and baseless. He states that A.L.C., Kanpur, has passed an order on 31.1.1983, consisting 48 workers who were directed to report for work within a week. But, barring the applicant 47 workers had turned up for duty. He had not put in even a single day's work. Even on 9.6.1995, 22.6.1995 and 22.7.1995, letters were issued to him to join work, but the same has not been heeded. The applicant not having attended work cannot claim the salary. He was absent and accordingly he was marked so, but, he made attempts to convert his remark of absence to presence which was not agreed. His moving the Wages authority and the Tribunal was based on mis-declaration and mis-representation of facts and the same cannot be permitted. Inspite of everything, the respondents have even as late as 1994-95 called him for duty which he had not adhered to. There was therefore, no reason to uphold his case. All the averments made by the applicant in this case are false, incorrect and deserve to be rejected. A person who has declined to be present in the office and to perform duties cannot seek that he should be granted salary. The applicant contests the above in his rejoinder. The respondents have reiterated their defence in the additional/supplementary counter reply. They have given an incidence wherein the applicant has acted in an indisciplined manner. Though he has been served with a notice on a number of times even as late as 1997 and letters were issued under Registered A.D. which were received by him, he has not attended the office. The respondents cannot be forced to keep on employing an individual who is not interested in work, they pray.

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6. We have carefully considered the matter and perused the facts brought on record. In this case, while the applicant states that he has not been permitted to rejoin duty and collect salary, the respondents point out that the case is otherwise and it is the applicant himself who has to be blamed for this predicament. Documents placed on record shows that the applicant who along with other 47 persons were called to duty, was the only person who did not attend the work. The repeated attempts by the respondents have not resulted in his attending the work. It is seen that on a number of occasions in 1992, 93, 94 and even in 1997, the applicant has been directed by the respondents to join duty, which he has not cared to do. Indiscipline and insubordinate worker who does not attend office or duties inspite of repeated instructions cannot claim that he has been prevented from performing the duty. No evidence has been brought on record to show that the applicant's allegation that he has not been permitted to join duty is correct. In the circumstances, the Tribunal is not in a position to direct the respondents to take him on duty and grant him his salary for the period he had not worked.

7. The O.A in the circumstances, is found to be without any merit. We accordingly dismiss it. No costs.


Member-J


Member-A

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