

RESERVED.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this ^{Aug} 11th day of July, 2000

Original Application No. 273 of 1999

District : Allahabad

CORAM:-

Hon'ble Mr. S. Biswas, A.M.

Kausain Ahmad, son of Sri Usman Ali,
R/o 84-D/2, Nai Abadi, Chakia,
Allahabad.

(Sri Yar Mohammad, Advocate)

. . . . Applicant

Versus

1. Union of India through the secretary,
Ministry of Railways, Rail Bhawan,
New Delhi.
2. Divisional Railway Manager,
Northern Railway, Allahabad.
3. Divisional Chief Engineer,
Concrete sleeper Plant,
Northern Railway, Subedarganj,
Allahabad.
4. Assistant Engineer, Northern Railway,
Mirzapur.

(Sri G. P. Agrawal, Advocate)

. . . . Respondents

O_R_D_E_R

Hon'ble Mr. S. Biswas, A.M.

The applicant has sought the following reliefs:-

- (i) direction to the respondents for permitting him to join at Mirzapur as Gangman according to the order dated 4-9-1998.
- (ii) direction to the respondents for payment of salary not paid since February, 1997.

S. B.

2. The applicant, a Khalasi since 2-8-1987, came to Allahabad from Lucknow on transfer on request and he was posted at Subedarganj, Allahabad under the Sleeper Concrete Plant. He joined at Subedarganj on 11-3-1992 as a Khalasi Helper. In March, 1996, he was transferred from Allahabad to New Delhi but he could not proceed due to illness of his wife who was required to be shifted to Madras. His wife ultimately expired leaving no one to look after the children. The applicant thereafter applied for leave for the period from 19-3-1996 to 31-1-1996. The leave was granted but his request for retention at Allahabad was not considered. The applicant prayed for reduction to the grade of Gangman by surrendering his seniority. Accordingly, he was posted to Mirzapur on 4-9-1998 as per the order annexed to the OA (Annexure-A-4). When he went to Mirzapur for reporting to duty on 28-11-1998 his joining report was not accepted and he was sent back to the D.R.M.'s Office with the direction to receive a relieving order. The issue raised in the petition is that the applicant was not permitted to join despite the order dated 4-9-1998 at S.S.E. Mirzapur and he was sent back to the Office of the D.R.M. for obtaining relieving order from Delhi or Allahabad and the order dated 4-9-1998 was not honoured.

3. The applicant's contention is that had he been allowed to join there at Mirzapur as per the order, he would not have been roaming from place to place without charge or duty and no salary has been paid to him since February, 1997.

4. The applicant, therefore, prays that he should be permitted to join at Mirzapur by virtue of the order dated 4-9-1998 and his salary be regularised.

S. D.

5. Learned counsel for the respondents has contested the case ^{sayant} that the applicant was posted at Subedarganj in the Concrete sleeper Plant which was abolished on 20-6-1995. His transfer to ^{with} Lucknow ^{so} was on administrative ^{exigency} ground as there was no vacancy available at Allahabad.

6. I have heard counsel, for the parties and considered the facts submitted by them. There is no denial of the fact that the applicant had surrendered his seniority and accepted reduction in scale to the grade of Gangman from Khalasi and consequent on consideration of the same fact, he was posted to Mirzapur as Gangman on 4-9-1998. However, he was not allowed to join there. The respondents have not considered the fact that he went there with a clear order; he should have been permitted to join there at Mirzapur. Consequently, he had to go without salary from February, 1997 as he was not acceptable at the place of posting. There is not written order against the applicant for ^{not} joining at Mirzapur ^{with today}. Since, the order is official, I am of the view that the said order was flouted in a highhanded manner by the Assistant Engineer Respondent No.4, Mirzapur. This Tribunal disposes of the case with the following directions:-

- (i) The applicant shall be allowed to join at Mirzapur as per the order dated 4-9-1998 with immediate effect within 7 days of the receipt of this order by respondent nos.4, 3 and 2 as they all seem to be concerned in not allowing the applicant as yet to join at Mirzapur.

S. D.

(ii) the respondent no.3 ^{shall} ~~will~~ accept his leave application and the leave shall be granted to the applicant as admissi^{ble} ~~ble~~ since February, 1997 and ^{admissible} leave salary paid within two months from the date of the receipt of this order.

7. The OA is disposed of accordingly with no order as to costs.



Member (A)

Dube/