

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 369 OF 1986
~~MAX NO~~

DATE OF DECISION 15.6.1987

SHRI ABDUL HAMID Petitioner

D.P. PADHYA Advocate for the Petitioner(s)

Versus

THE UNION OF INDIA & ORS. Respondents.

R.P. BHATT Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P. Srinivasan, ADMINISTRATIVE MEMBER.

The Hon'ble Mr. P.M. JOSHI, JUDICIAL MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *Yes*
4. Whether it needs to be circulated to other Benches of the Tribunal. *No*

Abdul Hamid Substitute
aged about 29 years,
Mehsana.

..... Petitioner

(Adv. D.P. Padhy)

Versus.

The Union of India, through:
The Divisional Rail Manager,
Western Railway,
Rajkot Division,
Kothi Compound,
Rajkot - 360 001.

..... Respondents.

ORAL JUDGMENT

O.A. No. 369 OF 1986

Date: 15-6-1987

Per: Hon'ble Mr. P.M. Joshi, Judicial Member.

In this application, filed by the petitioner, Abdul Hamid under section 19 of the Administrative Tribunals Act, 1985, has claimed the relief of reinstatement with back wages. According to the case set up by the petitioner, he was engaged as Casual Labourer during the period 16-10-1978 to 24-10-78, 16-2-1979 to 6-3-1979 and finally from 13-10-1982 to 14-1-1985. Consequently, he had acquired a temporary status and when the petitioner was working as a Cleaner in Loco Shed, Mehsana, he was sent for medical test in the year 1982. It transpires that the petitioner was not found fit for A-1 medical category, but he was qualified for A-3 category. Accordingly, it was recommended by Divisional Railway Manager (E), Rajkot that the petitioner should be directed to Permanent Way Inspector (PWI), Mehsana for CTA work, vide his letter No. EM/615/5/11 dated 10.1.1985. Later on, it was ordered that the petitioner be engaged in scale Rs.200-250 (R) as per AEW's office letter No.A/E/1(N) dated 15.2.85,

(Encl.3) which reads as under :-

"Shri Abdul Hamid Vajirkhan may be engaged in any group under your section against ELA giving him scale Rs.200-250(R) plus other usual allowance admissible.

This is as per APO (11) RJT's telephonic message with the undersigned of date."

2. It is the case of the petitioner that he reported himself for the duty in terms of the aforesaid order. But he was not allowed to resume. It is contended by the Respondents in their counter that it was the petitioner Abdul Hamid, who had not reported on duty and that is why he was not taken on duty in the office of the PWI.
3. When the matter came up for hearing we have heard Mr. Padhyay for the applicant and Mr. M.R.Bhatt for Mr. R.P.Bhatt on behalf of the Respondents. We have perused and closely examined the documents produced by the petitioner in support of his application.
4. It is pertinent to note that till the filing of the application and indeed even upto this day, the services of the petitioner have not been terminated by a valid order, as required under the extant Rules. It is also not the case of the Respondents that the services of the petitioner are terminated. It is true that petitioner took some time in approaching the Tribunal. But that would not come in the way of the petitioner in atleast in obtaining the order of reinstatement in his favour. However that would certainly be a relevant factor which may be weighed in disallowing him back wages.
5. We are satisfied that the petitioner has been able to make out a case for reinstatement. It is urged by

Mr. Padhya, the learned counsel for the petitioner that the orders passed vide Enclosure -III dated 15.2.1985 should be given effect in order to redress the grievance of the petitioner. We find considerable force in the submission made in this regard. As a matter of fact, concerned officer ought to have implemented the orders earnestly. But at this stage, we are not going into the merits of the petitioner's claim that he was not allowed to resume his duty or the contention of the Respondents that he did not report for the duty. However, as stated earlier the applicant has shown merits in his case. It will be therefore in the fitness direct the Respondents to take him on duty in terms of the above referred order (Ecnl.3).

6. In this view of the matter, the application is partly allowed. The petitioner is entitled to be reinstated. We therefore direct the petitioner to report for duty to the Assistant Engineer, ~~AEN~~ Mehsana within 15 days from the date of this order and also direct the Respondents-Railway Administration to take the petitioner on duty and reinstate him. In case, the petitioner fails to report for duty during the aforesaid period i.e. 15 days from to-day, he will have no right to be appointed as indicated above. It is further ordered that the Respondents shall treat the petitioner in continuous service till the date of reinstatement. But he will not have any claim for back-wages for the period he was not engaged. However, his past service will be taken into consideration for all other purposes. With this directions, the application stands disposed of with no order as to costs.


(P. SRINIVASAN)
ADMINISTRATIVE MEMBER.


(P.M. JOSHI)
JUDICIAL MEMBER.