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Coram : Hon'ble Mr. P.H. Trivedi : Vice Chairman
Hon'ble Mr. P.M. Joshi : Judicial Member

18.8.1987

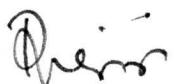
Heard learned advocates Mr.B.B.Gogia and Mr.P.N.Ajmera for Mr.J.D.Ajmera for the applicant and the respondents respectively. It has been stated by the respondent that he is ready to post the applicant at Dhrangadhra and on behalf of the applicant it is stated that he is prepared to withdraw the application, provided he is posted at Dhrangadhra and the period from 7th July, 1987 for which the interim relief was allowed by this Tribunal is regarded as duty by the respondent.

Learned advocate for the respondents states that so far as the period from 7th July, 1987 to the date of posting at Dhrangadhra is concerned, the applicant cannot claim this as a matter of right because on 7th July, 1987 the interim orders were passed by this Tribunal in terms of the order of transfer impugned by the applicant to be not "further implemented". However on that date the status of the applicant was that he was struck off the registers of the respondents from 12.6.1987. It was contended by the applicant that when he was transferred in May from Surendranagar to Halvad the respondent himself extended his period of leave upto 31st May, 1987 and it is admitted by both sides that there is no period of unauthorised absence by the applicant from this date to 7th July, 1987 when the Tribunal's order regarding interim relief came about. The applicant has either been on duty or allowed leave either at the instance of the applicant or due to operation of the orders of this Tribunal

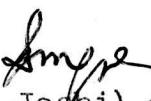
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but there is no unauthorised absence on the part of the applicant.

After hearing the learned advocates we do not find that there would be justification in acceding to the respondent's contention that from 7/7/1987 the applicant should not be regarded as on duty. The Tribunal's orders regarding interim relief were passed on 7/7/1987 initially for a period of 14 days calling upon the respondent to reply whether it should be continued. There was no reply from the respondent on 21/7/1987 when the Tribunal again ordered that interim relief ^{be} continued until 7/7/1987. The respondents filed his reply and the case has come up for hearing immediately thereafter. In the circumstances, it would not be fair to deny the applicant his dues as on 8.7.1987. We therefore direct that the petitioner is posted at Dhrangadhra with immediate effect and the period of his absence from July, 8th 1987 is regarded as on duty. With this direction and observation the (i.e. O.A. 310/87) case is disposed of as withdrawn.



(P.H.Trivedi)
Vice Chairman


(P.M.Joshi)
Judicial Member