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CAT/3/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH
~~NEW WOOD LXXIX~~

O.A. No. 100 OF 1988
~~Texx Nox~~

DATE OF DECISION 13-3-1991

Chatur Abhesinh Koli, Petitioner

Mr. R.T. Dave for Mr. D.F. Amin. Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

Mr. N.S. Shevde Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.M. Singh, Administrative Member.

The Hon'ble Mr. R.C. Bhatt, 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? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

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Chatur Abhesinh Koli,
26, at present doing nothing,
resident of Rahi,
Taluka Limkheda,
Dist: Panchmahals.

..... Applicant.

(Advocate: Mr.R.T.Dave for
Mr. D.F. Amin.)

Versus.

1. Union of India,
Representing, General Manager,
Western Railway, Churchgate,
Bombay.

2. Permanent Way Inspector,
Western Railway, Dohad,
District: Panchmahals.

..... Respondents.

(Advocate: Mr.N.S. Shevde)

ORAL ORDER

O.A.No.100 OF 1988

Date: 13-3-1991.

Per: Hon'ble Mr. M.M. Singh, Administrative Member.

In this application under section 19 of the Administrative Tribunals Act, relief of declaration that the action of the second respondents in not permitting the applicant to resume duty from 15.10.87 is unauthorised and illegal is sought. A direction to the respondents to take the applicant back on duty with backwages with effect from 15.10.87 is also sought.

2. According to the case of the applicant, he has fallen sick from 5.10.1987 to 14.10.87 and when he went to P.W.I. Shri Ramchandan Bishan at Dohad on 15.10.87 to resume duty he was not allowed to work. The applicant has produced no evidence in support of this contention. Even a medical certificate in support of sickness has not been produced.

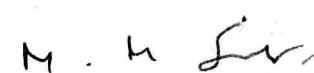
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3. On the contrary, the respondents' case is that the applicant had abandoned his duty with effect from 7th ~~September~~ October, 1986. They have produced zerox copies of the relevant muster sheet, ~~in record also~~. An affidavit dated 13th May, 1988 ~~sworn~~ shown by Ramcharan Bishan, Permanent Way Inspector, Dohad, presently working at Ratlam has also been filed to the effect that the applicant was never refused to work whenever he came on duty, that the applicant is in habit to remain absent without permission of authority, and that no order of termination either oral or written has been passed in favour of the applicant. In short, contents of the respondents is that the applicant abandoned his duty.

4. In the application, the ground of sickness from 5.10.87 to 14.10.87 not supported by any evidence was adduced by the applicant for his remaining away from duty. However, as seen from the respondents' record, evidence and affidavit the applicant had already abandoned duty with effect from 7.10.86. As the stated sickness followed the date of abandonment of duty, the reason of sickness for remaining away from duty to becomes irrelevant for consideration. The applicant had already abandoned his duty much before that.

5. To the contentions supported by evidence of the respondents, ~~the applicant has no~~ have not been filed/rejoinder. In view of the above, the application is devoid of merit and is hereby dismissed with ~~no~~ any order as to costs.


(R.C. Bhatt)
Judicial Member


(M.M. Singh)
Admn. Member.