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(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 731/1988
T.A. No.

DATE OF DECISION 24th March 1993

Shri Mohan Premi Petitioner

Shri P.H. Pathak Advocate for the Petitioner(s)

Versus

Union of India and others Respondent

Shri R.M. Vin Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.B. Patel

Vice Chairman.

The Hon'ble Mr. V. Radhakrishnan

Member (A)

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

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Mohan Premji
Railway Station,
Bhavnagar
Dist. Jamnagar.

Applicant

Advocate Shri P.H. Pathak

Versus

1. Union of India
Notice to be served through
the General Manager, Western
Railway, Churchgate Bombay.
2. Union of India
(Notice to be served through
the Divisional Railway Manager
Western Railway, Bhavnagarpara
Bhavnagar.

Respondents

Advocate Shri R.M. Vin

ORAL JUDGEMENT

In

O.A. 731 of 1988

Date 24-3-1993

Per Hon'ble Shri N.B. Patel

Vice Chairman.

The applicant was given employment by the Railway administration as a Casual labourer with effect from 27th September 1978 at Lalpur (Bhavnagar Division) and since then he was working there. In 1983, he was transferred to Jaipur Division from Lalpur in Bhavnagar Division. He joined at the place of his new posting in Jaipur Division, but he filed O.A. 38/86 in this Tribunal challenging the legality of his transfer to Jaipur Division and further claiming that he may be retransferred to Bhavnagar Division and absorbed there. This application was heard and disposed of by this Tribunal by the following operative order.

" In O.A. 38/86 no interim relief was granted, the petitioners were relieved on 24-8-1985 and they joined at Jaipur on 16-9-1985. In that case they will be reabsorbed if they so desire in the originating division. Their claim for seniority will be protected and they will not be terminated except on 'Last come first go' basis. Even if they continue at Jaipur this benefit will continue".

It appears that after the above order, the present applicant, who was one of the applicants in the aforesaid O.A. 38/86, moved the Jaipur Division authorities for his retransfer to Bhavnagar Division and Annexure A, which is the order dated 5-9-1988 passed by the Divisional Railway Manager Jaipur Division, shows that the applicant was directed by the said authority to report to the office of Divisional Railway Manager Bhavnagar Division and the said authority was requested to take necessary action in terms of the aforesaid order passed by the Tribunal in O.A. No. ^{38/1986.} ~~731/1988~~. There is absolutely no dispute as regards the facts ^{stated} ~~said~~ thus far.

2, The applicant's case is that, armed with this order he reported at the office of the Divisional Railway Manager, Bhavnagar Division, on 16-9-1988 and requested the said office to absorb him in the said division. It is further the case of the applicant that, despite this, he was not absorbed in the Bhavnagar Division nor was he paid any wages though he became entitled to claim the same with effect from 16-9-1988 i.e., on the date on which he reported at the office of the Divisional Railway Manager, Bhavnagar Division for being reabsorbed pursuant to the order passed by the Jaipur Division authorities.


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Proceeding further, the applicant avers that he served the department with notice dated 15th October 1988 through his advocate calling upon the Bhavnagar Division authorities to reabsorb him as ordered by the Tribunal, but the said authorities neither replied to the said notice nor took any action in the matter. The applicant states that, once again, he sent a registered letter dated 16th November 1988, (Annexure -1) calling upon the Bhavnagar authorities to reabsorb him forthwith and to pay him wages. According to the applicant, even the second communication did not yield any result and, therefore, he was constrained to file the present application wherein he has ^{pleaded for a} ~~claimed the~~ direction to the Bhavnagar Division authorities to reabsorb him and thereafter to regularise him in due course and to pay him back wages with effect from 16-9-1988.

3. It appears that, after the filing of this application, the applicant is actually reabsorbed in Bhavnagar Division on 24-1-1989 and we are told that he is now regularised and there is no dispute about the fact that, with effect from 24th January 1989, he is paid wages payable to him. The only dispute which, therefore, remains to be resolved is whether the applicant is entitled to claim wages for the period from 16th September 1988 to 23rd January 1989 i.e. the date on which he claims to have reported for duty at Bhavnagar Division and the date on which he is actually absorbed by that Division. In the reply filed by the respondents, it is suggested, ^ain ₂ rather a vague way, that the applicant's version that he had reported at Bhavnagar Division on 16th September 1988, is not true and that he had reported to the said authorities for the first time on 24th January 1989, and he was promptly reabsorbed on that very day. This version put forward by the respondents appears to be highly improbable and cannot be accepted. The applicant

moved the Jaipur Division authorities for his retransfer to Bhavnagar Division and had actually obtained the order to that effect from Jaipur Division and, therefore, it would seem somewhat improbable that the applicant would not report at Bhavnagar Division. Further^{more}, there is no categorical denial, in the reply, of the fact that the applicant had written letter dated 16th November 1988 and had also sent a notice dated 15th October 1988, through his advocate. We, therefore, do not accept the defence that the applicant did not report^{ed} for duty at Bhavnagar Division on^{the} 16th Sept. 1988, or at any time before^{the} 24th January 1989. There is thus no hesitation on our part in holding that the applicant's claim for wages as payable to him for the period from 16th September 1988 to 23rd January 1989 is well-founded and has got to be allowed. There is also no reason as to why the applicant should not get the costs of these proceedings from the respondents.

4. In the result, therefore, we allow^{the} application and direct the respondents to pay wages to the applicant, for the period from 16th September 1988 to 23rd January 1989, within a period of two months of the receipt of^a the copy of this order. We also direct the respondents to pay to the applicant the costs of this application which we quantify at Rs.250/-


(V. Radhakrishnan)
Member (A)


(N.B. Patel)
Vice Chairman

*AS.