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IN THE CENTRAL ADMINISTRATIVE TRIAUNAL
AHMEDABAD BENCH

O.A. No. 131 OF 1990
~~XXXXXX~~

DATE OF DECISION 13.11.1992

Smt. Lilaben Samat, Petitioner

Mr. P.H. Pathak, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

Mr. B.R. Kyada, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V.Krishnan, Vice Chairman.

The Hon'ble Mr. R.C. Bhatt, Judicial Member.

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? ✗

(4)

Smt. Lilaben Samat,
C/o. Ketha Sama,
Rabariwas,
Dwarka, Gujarat.

..... Applicant.

(Advocate: Mr. P.H. Pathak)

Versus.

1. Union of India
Notice to be served through
General Manager (WR)
Churchgate, Bombay.

2. Divisional Railway Manager (WR)
Kothi Compound,
Rajkot.

3. Asst. Engineer (WR)
Railway Station
Mehsana.

..... Respondents.

(Advocate: Mr. B.R. Kyada)

ORAL ORDER

O.A. No. 131/1990

Date: 13.11.1992.

Per: Hon'ble Mr. N.V. Krishnan, Vice Chairman.

The applicant has prayed for the following
reliefs:

(A) The Hon'ble Tribunal be pleased to declare the impugned action on the part of the respondent, non-allowing the applicant to resume her duties, after she was declared fit by the private medical officer, is illegal, invalid and in-operative in law and declare that it is a termination without following the due process of law and therefore the applicant is entitled for reinstatement with full backwages and continuity of services.

(B) Be pleased to declare the action of the respondent initiating enquiry against the applicant for remaining absent, for which the applicant has submitted the medical certificate as arbitrary, non application of mind and

(1)

violative of Articles 14 & 16 of the Constitution of India as well as further held that non payment of salary to the applicant and to compel her to attend the enquiry at long distance is violative of principle of natural justice and be pleased to quash and set aside the enquiry proceedings.

(C) Be pleased to direct the respondents to pay the salary and all other benefits to the applicants for forced idle period and further direct to continue the applicant in services."

We have heard Mr. P.H. Pathak for the applicant and Mr. B.R. Kyada for the respondents.

2. It is pointed out by the learned counsel for the respondents that as early as on 21.8.1989 the applicant was directed by the Annexure A-11 memorandum to report to the DMO Mehsana for getting a fitness certificate to rejoin railway duty and, informed that further action would be initiated when such a fitness certificate is produced to the PWI(S) MSH, who is under the control of the third respondent. It is contended by the respondents that the applicant's services has not been terminated but that in view of the applicant's unauthorized absence, disciplinary proceedings have been initiated.

3. In the circumstances, it was suggested ~~by him~~ ^{to the parties} that it should be possible to dispose of this application by giving a direction to the applicant to report to the respondent No.3, Assistant Engineer who could then direct her to DMO Mehsana for obtaining a fitness certificate. In case such a certificate

is given by the DMO Mehsana, the respondents should thereafter take action, in accordance with law. ^{or Sri Lyada,} ~~He~~ submits that, in the meanwhile, the disciplinary proceedings against the applicant be permitted to be continued and completed in accordance with law. The learned counsel for the applicant has no objection to dispose of this application on this basis.

4. In the circumstances, we are satisfied that this application ^{can} be disposed of with the issue of suitable directions. We therefore dispose of this application with a direction to the applicant to report within two weeks from the date of receipt of this order, before the 3rd respondent, who shall then issue a requisition to the DMO Mehsana for getting the applicant examined for his fitness and direct the applicant to report to the said DMO on a date to be specified by him. The respondent authorities shall consider the certificate granted by the DMO and take action in accordance with law. These directions are without prejudice to the rights of the respondents to continue with the disciplinary proceedings being held against the applicant. Application is disposed of accordingly without any order as to costs.

Neral
(R.C.Bhatt)
Member (J)

Thru
13.11.92
(N.V.Krishnan)
Vice Chairman