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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 233/90

~~PAN NO.~~

DATE OF DECISION 2/12/1993

Shri Faramji H. Patel Petitioner

Mr. P. K. Handa Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

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

CORAM :

The Hon'ble Mr. N. B. Patel : Vice Chairman

The Hon'ble Mr. K. Ramamoorthy : 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 ?

Y
No

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Shri Faramji H. Patel
 Retired Shop Supdt. (Loco),
 Pratapnagar Workshop,
 Larin Cottage,
 Opp. Railway Station,
 Godi Road.
 (Advocate: Mr. P. K. Handa)

: Applicant

Versus

1. Union of India
 Secretary, Ministry of Railways,
 Rail Bhavan,
 New Delhi.
2. General Manager,
 Western Railway,
 Churchgate, Bombay.
3. Chief Workshop Engineer,
 Western Railway,
 Churchgate,
 Bombay.
4. Works Manager,
 Pratapnagar Workshop,
 Western Railway,
 Vadodara-390 004.
5. Assistant Accounts Officer,
 Dahod Workshop,
 Western Railway,
 Dahod.

: Respondents

(Advocate: Mr. N. S. Shevde)

ORAL ORDER

IN
O.A./233/90

Date: 2/12/1993

Per: Hon'ble Mr. N. B. Patel

: Vice Chairman

By his letter dated 15.5.1989, the General Manager (E), CCG wrote to the Works Manager, Pratapnagar to send to him verbatim remarks of the Local Accounts and accident report and sick/fit (IOD) certificate to enable him to examine and finalise the proposal for grant of special disability leave to the applicant. Pursuant to this letter from the General Manager (E), the Works Manager by his letter, dated 13.6.1989 wrote to the AAO, Dahod

to send his verbatim remarks in the matter. While asking for the verbatim remarks of the Assistant Accounts Officer, the Works Manager wrote that the case was a genuine case for grant of special disability leave. The established facts of the case are that the applicant had sustained an accidental injury by a fall within the compound of the workshop near the cycle stand while he was preparing to go home after his duty was over. It appears that the applicant was immediately carried to Railway Hospital, after he sustained the injury, by his co-workers and from there he was referred to the Government Hospital at Baroda. Despite the clear recommendation of the Works Manager, that the case was a genuine one for grant of special disability leave, the Accounts Officer opined that special disability leave was not admissible in terms of para 552 and 553 of the Indian Railway Establishment Code ~~of~~ Volume-I. Actually, the Works Manager was required to forward the remarks of the Accounts Officer to the General Manager for finalisation of the case, but he seems to have treated the case as closed ~~after~~ ^{above} the opinion of the Accounts Officer. He has accordingly informed the applicant by his letter, dated 16.9.1989 that AAO had advised that grant of special leave was not admissible to him in view of para 552 and 553 of the IRE Code Volume-I. Thus, the General Manager, who is the competent authority to grant or refuse special leave, has still not decided the case. However, at the level of the Works Manager, the case is treated as closed and leave asked for by the applicant must be taken to have been refused by the Works Manager. In our opinion, the

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competent authority to grant or refuse special disability leave being the General Manager, as stated by the learned advocate Mr.N.S. Shevde, the papers are required to be sent to the General Manager for finalisation of the proposal for grant of special leave to the applicant. It may be recalled that, by his letter dated 15.5.1989, the General Manager had asked for IOD certificate. It appears that such a certificate is still not issued by the Works Manager, very probably, because the applicant had not reported about the accidental injury promptly to the Works Manager. We find that, in the circumstances of this case, there was substantial compliance of the requirement of ^{the} provision contained in para 553 that the fact of the accident must ^{be promptly brought} come to the notice of the Works Manager, as we find that the applicant was rushed to the Railway Hospital by some co-workers and the accident had occurred within the premises of the workshop. The report of the Works Manager tends to show that he had come to know about the accident soon after ^{its} occurrence. Considering proximity of the time and place of the accident, we are clearly of the opinion that the accident must be said to have occurred in the performance of ^{his} the duty by the applicant. We thus find that there is substantial compliance with the requirement of the relevant provision about the fact of the accident being brought to the notice of the concerned authority. In the facts and circumstances of the case, we also find that the accident had occurred ~~in the workshop~~.

in the performance by the applicant of his duty within the extended meaning judicially given to that expression. We, therefore, direct the General Manager to consider the case of the applicant in the light of our aforesaid observations on receiving back of the relevant papers from the Works Manager. We direct the Works Manager, Pratapnagar to forward all the relevant papers to the General Manager, so that the papers will reach ~~to~~ the General Manager within three weeks hereof. The General Manager is directed to finalise the case within two months of the receipt of papers by him. In view of ~~our~~ aforesaid observations and directions, Mr. Handa seeks permission to withdraw the application with liberty to file a fresh application in the event of the applicant being aggrieved by the decision that the General Manager may take in the matter. Permission granted accordingly with liberty as prayed for. O.A. stands disposed of as withdrawn. No order as to costs.



(K. Ramamoorthy)
Member (A)



(N.B. Patel)
Vice Chairman

a.a.b.