

NO
Not allowed
to resume duty

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No.313/91
~~EX NO.~~

DATE OF DECISION 17.8.1992

Shri Nagar Viram Thakore Petitioner

Mr. C.S. Upadhyay Advocate for the Petitioner(s)

Versus

The Union of India & Ors. Respondent

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

CORAM :

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

The Hon'ble Mr. R.C. Bhatt : Member (J)

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 ? ✓

Shri Nagar Viram Thakore

... Applicant

Vs.

1. The Union of India,
Through:
The General Manager,
Western Railway,
Churchgate, Bombay-20.
2. The Divisional Railway Manager,
(Engineering/Establishment),
Western Railway,
Baroda.
3. Medical Superintendent,
Railway Hospital,
Pratapnagar,
Baroda.
4. The Chief (P.W.I. (B.G.)),
Western Railway,
Sabarmati,
Ahmedabad-4.

... Respondents.

O R A L J U D G M E N T

O.A./313/1991

Date:17.8.1992

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

Present: Mr. C.S. Upadhyay, Adv./App.
Mr. N.S. Shevde, Adv./Res.

1. The applicant was last employed as a gangman under the ^uforth respondent. He was to be medical^{ly} examined to find out whether he was really not well and deserved to be given benefits of a medically ~~de~~ ~~cat~~ ~~eg~~ ~~or~~ ~~iz~~ ~~e~~ ~~d~~ employee as claimed by him or he was only malingering, as alleged by the respondents. His grievance is that he has not been properly examined. He therefore, prayed for following reliefs:

"(1) The Hon'ble Tribunal may direct the respondent authorities to declare the applicant physically fit of performing the duties of gateman and he may be offered some alternative appointment on reasonable emoluments if he is declared incapable perform the said duties and allow to resume duties.

(2) The Hon'ble Tribunal may direct the respondents authorities to grant leave w.e.f. 21.4.90

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onwards and pay the pay and allowances till he is offered alternative appointment on reasonable emoluments.

(3) The Hon'ble Tribunal may direct the respondent authorities to appoint his son on compassionate grounds if the applicant is not offered alternative appointment on reasonable emoluments allowing the applicants to retire with all consequential pensionary benefits.

2. During the course of final hearing the learned counsel for the applicant pressed only for relief (1) relating to his physical fitness.

3. In this regard, the respondents have filed a reply. In para 4 of the reply they have explained their version of the case, in which, inter-alia, it is stated as follows:

"It is submitted that the applicant attended the J.R. Hospital, Bombay Central, with the said letter dated 4.1.1991 on 7.1.1991. The applicant was asked to be admitted by the Senior Divisional Medical Officer (Ophth) J.R. Hospital, Bombay Central on the same day in the Hospital but the applicant left the said J.R. Hospital, Bombay Central without any notice leaving the papers in ophth Department at J.R. Hospital, Bombay Central without going to the ward."

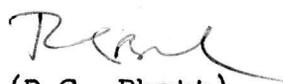
4. We have heard the parties. We are satisfied that in the interest of justice, it is necessary to permit the applicant to appear in the medical examination again from the stage where it was left last as mentioned in the above reply of the respondents. Therefore, this application can be disposed of with suitable directions.

5. In the circumstance, we direct the applicant to present himself with a copy of this order before the Medical

Supdt. Railway Hospital Board (Respondent no. 3) on any working day in the week immediately following the expiry of 15 days from the date of receipt of this order and in case the applicant so presents himself, respondent no. 3 shall take necessary action to have the applicant's medical examination completed at the J.R. Hospital, Bombay by the Medical Board in accordance with the provisions of law and the D.R.M. Baroda, respondent no. 2 is directed to take suitable consequential action, in accordance with law, on the basis on such medical examination. All these processes shall be completed within three months from the date on which the applicant presents himself for examination.

6. The reliefs claimed at (2) and (3) of the extract reproduced in para (1) above do not arise out of this application and hence we have not considered them. The instant order shall not stand in the way of the applicant making a representation to the authorities on respect of these reliefs.

7. Application disposed of as above.


(R.C. Bhatt)
Member (J)


17-8-92
(N.V. Krishnan)
Vice Chairman

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