

NO  
for issuing  
any certificate

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

O.A. No. 84 of 1992  
TA No.

DATE OF DECISION 3-9-1992

Shri Chimabhai K. Parmar. Petitioner

Shri Utpal Panchal Advocate for the Petitioner(s)

**Versus**

Union of India and others. Respondent

Shri 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 Chimanbhai K. Parmar

1794/A 18/1 Abu Kasai's Chawl,  
Behind Silver Mill,  
Rajpur, Ahmedabad 380 021

Applicant.

Advocate Shri Utpal Panchal

Versus

Union of India

(notice to be served through  
General Manager, Head Quarter  
Office, Western Railway Office,  
Chrch gate Bombay.)

2. The Divisional Regional Manager (E)  
Western Railway, Pratapnagar,  
Baroda.
3. Chief Signal Inspector, Western Rly.,  
Ahmedabad.
4. Chief Medical Superintendent,  
Western Railway, Pratapnagar,  
Baroda.

Respondents.

Advocate Shri N. S. Shevde

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

O.A. 84 of 1992.

Date: 3-9-92

Per Hon'ble Shri N. V. Krishnan Vice Chairman.

Shri Utpal Panchal learned counsel for the  
applicant.

Shri N. S. Shevde learned Counsel for the  
respondent.

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The applicant entered Railways as a Casual labourer on 21-6-1978 and he was regularised as a Khalasi on 30-3-82. He fell ill in May 1982 and his prolonged illness is alleged to have continued for 8 years. After recovering in 1990, he tried to get re-engaged in the Railways, but was unsuccessful.

2) A representation was made by him dated 20-2-90 to the General Manager, <sup>was</sup> forwarded on 17-4-1990 (Annex. A-4) to the second respondent, D.R.M (E) Baroda. He was advised on 4-7-1990 by the second respondent (Annex. A-6) to present himself before the railways Medical Authorities. The applicant requested the second respondent (Annex.A-12) dated 20-7-90 to direct the DMO to give him a duty fitness Certificate.

3. After several months, the second respondent issued the Annexure A-17 memo dated 1-8-1991 to the Chief Medical Superintendent, Baroda which is reproduced below:

" Shri Chimanlal K. Parmar who was appointed duly screened as temporary helper under CSI ADI on 23-4-1982. He has worked under CSI ADI from 23-4-1982 to 4-5-1982 and granted leave from 12-5-1982 to 23-5-1982. Thereafter he remained absent without authority from 24-5-1982.

Now he attended this office with Private Doctor Certificate which was directed by the ASIE BRC to CMS. CMS remarks can be seen thereon.

He cannot be taken on duty without duty certificate from Railway Doctor. Kindly arrange to issue necessary duty certificates to enable this office to take him on duty."

4. This memo was returned in original by the Chief Medical

Superintendent, (Resp. 4) with the following remarks.

" The specific question is that continuous absence from duty beyond 5 years should be first *decided* by competent authority. He is not even permanent employee. If competent authority decided to take him on duty then only case should be directed to CMS."

5. It is in this circumstances that this application is filed seeking a direction to the respondent to issue the duty certificate to enable him to resume duty. The application is opposed by the respondents.

6. We have heard the parties. It is submitted by the learned Counsel for respondent that in a case of this nature it is for the highest Medical Authority in the Zonal Railway, namely the Chief Medical Officer, to determine whether, after such a long absence, a person can be taken back in service. Therefore, the D.R.M (respondent no.2) ought to have referred the matter to the Chief Medical Officer, Bombay <sup>and</sup> not to the 4th respondent.

7. We are, therefore, satisfied that this application can be disposed of with suitable directions. Accordingly, the second respondent (the D.R.M. Baroda) is directed to send the all particulars of the applicants case to the General Manager, Western Railway, Bombay, (Respondent no. 1) within 15 days from the receipt of this order and in case such a reference is received, the General Manager, Western Railway (Respondent No.1) shall cause <sup>to have it examined</sup> by the Chief Medical Officer and also <sup>ensure that</sup> ~~peruse~~ the case is disposed of as early as possible and, in any case, within a period of two months from the date on which he receives the reference from respondent no. 2.

8 The application is disposed off accordingly.

(R.C. Bhatt)  
Member (J)

(N. V. Krishnan)  
Vice Chairman