

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 207/93
T.A.NO.

DATE OF DECISION 8/1/98

Shri Govind Tapu Petitioner

Mr. P.H. Pathak Advocate for the Petitioner [s]
Versus

Union of India and Others Respondent

Mr. R.M. Vin Advocate for the Respondent [s]

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The Hon'ble Mr. V. Ramakrishnan, Vice Chairman

The Hon'ble Mr. P.C. Kannan, Member (J)

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lerdships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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Shri Govind Tapu,
C/o Dabhi Pan House,
Railway Station Road,
Ranavav,
Dist. Junagadh

... Applicant

(Advocate: Mr. P.H. Pathak)

Versus

- 1) Union of India
Notice to be served through
Divisional Railway Manager,
Western Railway,
Bhavnagarpara, Bhavnagar
- 2) Chief Engineer (Construction)
2nd floor, Railway Station,
Kalupur,
Ahmedabad.

... Respondents

(Advocate: Mr. R.M. Vin)

JUDGMENT

O.A./207/93

Dated: 8-1-98

Per: Hon'ble Mr. P.C. Kannan, Member (J)

The applicant has filed the above O.A. praying for the following reliefs:-

(A) The Hon'ble Tribunal be pleased to declare that the applicant is entitled to get the full back wages for the period from 20.5.88 when the applicant has reported to resume his duty and therefore direct the respondent No.2 to

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pay the back wages to the applicant with 18% interest.

(B) Be pleased to declare that the applicant cannot be deprived of the benefits of his back service by the respondent No.2 for inaction on the part of the respondent No.2 to issue medical memo in favour of the applicant on his reporting for resuming duty by obtaining the certificate of the Private Medical Officer.

(C) Be pleased to direct the respondents to regularise the sick period of the applicant and consider him in continuous service from the date of initial appointment and grant all consequential benefits with 18% interest and further hold that the respondent No.1 has no authority to treat the applicant as fresh employee and direct him to pay the arrears of salary to the applicant with 18% interest.

2. The applicant is a gangman of the respondent department working under the permanent Way Inspector, Porbander. Earlier he filed O.A. No.746/88 against the respondent for not allowing him to resume his duty and not given requisite memo for Medical examination of the applicant. After hearing both the sides, the Tribunal vide judgment dated 20.9.91 inter alia stated that the action of the respondents refusing to take him on duty and resusal to give requisite memo for medical examination of the applicant amounted to

termination of services. The Tribunal therefore passed the following order:-

"The respondents after giving an opportunity to the applicant of being heard on the point about his grievances mentioned in notice Annexure A/5 dated 23.5.1988 served on the respondents are directed to dispose of the same in accordance with the rules applicable to the applicant within three months after the receipt of this order under intimation to the applicant. The application is allowed to the above extent. No order as to costs."

3. In furtherance of the judgement of this Tribunal, the applicant reported to the respondent No.2 office at Ahmedabad. Thereafter the office of respondent No.2 sent the applicant for medical examination and after obtaining the medical report, resumed duty w.e.f. 19.12.91 and the applicant is working under the Respondent from the said date.

4. The applicant after joining the services requested the office of the respondent to pay his wages for the idle period during which he was not allowed to resume the duty. (for the period from 20.5.88 to 3.12.91). It was stated that in spite of repeated requests, the respondents refused to pay his wages for the said period, and therefore has filed the present application for claiming wages for the said period.

5. The respondents in their reply interalia stated that the applicant was transferred to Bhavnagar Division vide

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memo dated 28.4.1986, but he joined to his duty only on December, 1991. The applicant declared himself sick vide private doctor's certificate from 1.5.1986 to 19.5.1988 and on the applicant's resumption of duty as Gangman at Porbander in December 1991, the applicant was paid wages for 1.5.1986 to 19.5.1986 as the same was treated as leave due. The remaining period was treated as absent. As the applicant has not worked for any day between 20.5.86 to 3.12.91 he was not entitled for any wages on the principle of "No work, no pay".

6. Heard Mr. Pathak, counsel for the applicant and Mr. Vin for the Respondents.

7. This Tribunal vide judgement in O.A. No.746/88 dt. 20.9.1991 stated that the applicant was prevented from joining duty as the respondents refused to give requisite memo and the Respondents were directed to hear about the grievances mentioned in the notice dated 23.5.88. This judgement of the Tribunal was accepted by the respondents and thereafter, issued orders for his medical examination.

8. In the light of these facts, it cannot be stated that the applicant had refused to work. He is therefore entitled to some compensation. Keeping in view the period involved, the pay drawn by him at the relevant time and providing for the possibility of some earning during the period, we think it is appropriate that the applicant should be paid a lump sum of Rs.20,000/- as backwages for the relevant period. We direct accordingly. This process

shall be completed by the respondents within a period of two months from the date of receipt of a copy of these orders. The applicant shall also deem to be in continuous service from the date of initial appointment.

Dra
(P.C. Kannan)
Member (J)

DRK 8/11/78
(V. Ramakrishnan)
Vice Chairman

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CENTRAL ADMINISTRATIVE TRIBUNAL
— AHMEDABAD BENCH, AHMEDABAD

Application No. 04 207 93

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided).

Date:- 19/01

Signature of the Dealing
Assistant

Countersign: -

Section Officer

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10/1/28

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

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NAME OF THE PARTIES Shri Girind Taty

VERSUS

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