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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.318 OF 2000

Cuttack, this the ^{24th} April, 2003

R.V.Pillai

Applicant

Vs.

Union of India and others

Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? *No*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *No*

[Signature]
(MEMBER JUDICIAL)

[Signature]
(B.N.SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTBACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.318 OF 2000

Cuttack, this the ^{29th} April, 2003

CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN

AND

HON'BLE SHRI M.R.MOHANTY ,MEMBER(JUDICIAL)

.....
R.V.Pillai, aged about 57 years, son of M.Raghavan Pillai, 836, C Retanga Colony,

P.O.Jatni, District Khurda Applicant

Advocate for the applicant - Mr.P.Pattnaik

Vs.

1. Union of India, represented by General Manager, South Eastern Railway, Calcutta, Garden Reach, Calcutta, West Bengal.
2. Divisional Railway Manager, South Eastern Railway, Khurda Road, District Khurda.
3. Senior Divisional Personnel Officer, South Eastern Railway, Khurda Road, Dist.Khurda.
4. Senior D.E.M. (Divisional Engineer), South Eastern Railway, Khurda Road, Dist. Khurda

..... Respondents

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Advocates for the Respondents - M/s S.Roy & A.Khan.

ORDERSHRI B.N.SOM, VICE-CHAIRMAN

This Original Application has been filed by Shri R.V.Pillai, presently working as Bridge Khalasi Grade III. He has prayed for a direction to the Respondents to count his service from 17.9.1965 to 7.2.1994 towards seniority and other consequential service benefits.

2. The facts of the case are that the applicant remained absent from 10.11.1981 to 28.10.1993. His case is that he had to undergo treatment at Agra during the period of illness from 5.12.1981 to 28.10.1993. It was during his stay at Agra that the Respondents removed him from service with effect from 4.2.1984 by their order dated 23.2.1983. After recovering from his illness, he appealed to Respondent No.2, who, taking into consideration his illness, re-appointed him as Bridge Khalasi Grade III with effect from 17.3.1994.


3. The Respondents in their counter have submitted that the applicant had remained unauthorizedly absent from 10.11.1981 whereupon a major penalty charge sheet was sent to him through Registered Post to his home address in Kerala, but the letter had come back undelivered. Thereafter they carried out an ex parte proceedings and removed him from service with effect from 4.2.1984. They have further submitted that on his appeal, they had taken a humanitarian view and re-appointed him as Bridge Khalasi Grade III. They have further stated that after nine years of absence, the applicant submitted a medical certificate from a private practitioner, an ex-Chief Medical Officer, from Agra.

4. We have heard counsel for both the parties and perused the records placed before us.

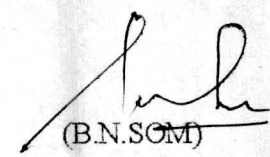
5. The applicant has not been able to state either in his Application or during oral submissions, the reasons for not taking treatment from the Railway Hospital or as to

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how he went to Agra and received treatment from a private practitioner. In other words, he could not establish beyond doubt that he was physically so unwell that he could not communicate with his authorities. The Respondents have given full consideration to the applicant's difficulties by agreeing to offer re-appointment to him although he was removed from service. There is no doubt that the Respondents have gone whole hog to help the applicant. It was applicant's own decision to remain away for nine years. He has not been candid enough to tell the whole story. On our query, the learned counsel for the Respondents informed us that the applicant would be entitled to minimum pension on retirement. That being so and having regard to the other facts and circumstances of the case, we see no merit in the Application and accordingly reject the same.


(M.R. MOHANTY)

MEMBER (JUDICIAL)


(B.N. SOM)

VICE-CHAIRMAN

AN/PS