

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

.....
Date of order : 9.5.2000

O.A.NO.79/99

Hasam Khan S/o Fakir Khanji, aged about 39 years, R/o Village Masjid Ki Dhani, Pipar Road, Post Office, Malad, District Jodhpur (Rajasthan), presently posted at Northern Railway, Railway Station Marwar Mathania, on the post of Graded Scaled Gangman under the Assistant Engineer, Northern Railway, Jaisalmer.

.....Applicant.

versus

1. Union of India through the General Manager, Northern RAilway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Jodhpur.
3. Divisional Superintendent Engineer I, Northern Railway, Jodhpur.

.....Respondents.

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CORAM :

HON'BLE MR.JUSTICE B.S.RAIKOTE, VICE CHAIRMAN

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

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Mr.S.K.Malik, Counsel for the applicant.

Mr.Manoj Bhandari, Counsel for the respondents.

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PER MR.JUSTICE B.S.RAIKOTE :

The Applicant has filed this application ventilating his grievance against the respondents stating that they were not taking the applicant on duty and such an action of the respondents should be declared as illegal. The applicant further states that it is a fit case to direct the respondents to take the applicant on duty immediately and the period from 7.1.91 till the date of taking the applicant on duty, may be treated as spent on duty for all the

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purposes and the applicant also prays for the consequential relief of directing the respondents to pay him pay and allowances w.e.f. 7.1.91 with interest.

2. It is the case of the applicant that on the basis of the alleged criminal case, registered against him, the applicant was not taken on duty. But, subsequently, the applicant has been exonerated of the charges by acquitting by the Criminal Court vide judgment and Order dated 3.4.97 (Annex.A/6) passed by the learned Civil Judge, Junior Division-IV, Jodhpur in Criminal Case No. 871/92, therefore, the applicant is entitled to the relief as prayed for.

3. The respondents by filing counter, have denied the case of the applicant stating that the applicant was not taken on duty only because there was a criminal case against him and after his acquittal by the Criminal Court, he was directed to join his duties by reporting to the Assistant Engineer, Jaisalmer. This was done on 11.1.91. In spite of such direction, the applicant himself has not joined on duty. ~~It is the averment of the respondents mentioned in para 10 of the reply that the learned counsel for the learned counsel for applicant submits that he was not so directed to report for duty before the Assistant Engineer at Jaisalmer. Thus, from the allegations and counter allegations, what we find is that there was a criminal case against the applicant and ultimately the applicant was acquitted and after his acquittal, the applicant was entitled to be taken on duty. But, the contention of the respondents that the applicant himself did not join the duties, when he was so directed on 11.1.91, is denied by the applicant. In these circumstances, we think it appropriate to pass the order as under :-~~ The learned counsel for applicant submits that he was not so directed to report for duty before the Assistant Engineer at Jaisalmer. Thus, from the allegations and counter allegations, what we find is that there was a criminal case against the applicant and ultimately the applicant was acquitted and after his acquittal, the applicant was entitled to be taken on duty. But, the contention of the respondents that the applicant himself did not join the duties, when he was so directed on 11.1.91, is denied by the applicant. In these circumstances, we think it appropriate to pass the order as under :-

4. The applicant shall, immediately report for the duties to the Assistant Engineer, Jaisalmer, on or before 31st May, 2000 at 11.00

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A.M. On such report, the respondents are directed to take the applicant on duty. As regards the period from 7.1.91, the applicant shall make a representation to the authorities for being treated as on duty and it is for the respondents to decide the same in accordance with law.

5. No order as to costs.

Gopal Singh
(GOPAL SINGH)

Adm. Member

B.S.RaiKote
(B.S.RAIKOTE)
Vice Chairman

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Bhutan

Part II and III destroyed
in my presence on 27.10.06
under the supervision of
section officer () as per
order dated 23.10.06

Section officer (Record)