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CENTRAL ADMINISTRATIVE TRIBUNAL

**Original Application No. 43/2008
JODHPUR : THIS IS THE 22nd FEBRUARY, 2011.**

CORAM :
HON'BLE DR. K.B.SURESH, MEMBER [J]
HON'BLE MR.SUDHIR KUMAR, MEMBER [A]

Niyamat Ali S/o Shri Akbar Ali aged 60 years by caste Muslim, r/o Barkatullah Khan Colony, Handpumpwali Gali, Akhaliya Choraha, Jodhpur, Black Smith Gr.III in the Office of Assistant Engineer, H.Q. North Western Railway, Jodhpur.

APPLICANT

For the Applicant : Mr. B.C. Bhansali, Advocate.

VERSUS

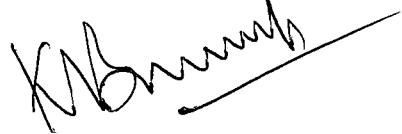
- 1- Union of India through the General Manager, North Western Railway, H.Q., N.B.C. Road, Jaipur.
- 2- Chief Engineer (Principal), North Western Railway, N.B.C. Road, Jaipur.
- 3- Senior Divisional Engineer (C) North Western Railway, Jodhpur Division, Jodhpur.
- 4- Assistant Divisional Engineer (H.Q.) North Western Railway, Jodhpur Division, Jodhpur.
- 5- Senior Divisional Railway Manager, North Western Railway, Jodhpur Division, Jodhpur.

RESPONDENTS

For the Respondents : Mr. Govind Suthar for Mr. Manoj Bhandari

ORDER(ORAL) **[PER DR. K.B.SURESH, MEMBER (J)]**

- 1- We have heard the matter in extenso. Also we had an opportunity of discussing his illness with the applicant himself. The matter relates to applicant's absence from 1991-1993 and thereafter from 1993 to 2007. In the year 1993, he had produced a fitness certificate obtained from an Ayurvedic Doctor without indicating what is the illness. He was apparently referred to a medical board but, apparently, he did not seem to be able to attend the medical board. The applicant's contention is that he has been transferred even though he was junior most and as per the rules



prevailing at the relevant point of time in the Railways the senior-most should have been transferred. He further states that not only this, even the transfer order was not issued to him and even if the transfer order was issued to him, it did not reach him and the Railways had a duty to provide him a spare transfer order. In any case, it is admitted that from 1991 to 2007, the applicant was not inclined to work with the respondent-Railways. The Union seems to have taken-up his cause and it was decided that the applicant should produce a proper medical certificate. However, such medical certificate had not seen the light of the day.

2- When the matter was heard today, the learned counsel for the applicant would submit that in 1993, he was suffering from Diabetes, therefore, we had an opportunity of questioning the applicant, who informed us that he was taking ayurvedic medicines but, later on, while amending his version, told that he is even now taking Tab Dionil, therefore, we asked him specifically to provide us with a knowledge about the size of the tablets. His answer was not convincing that whether he was suffering from Diabetes or not from 1991 to this date. Although it was a fact that the certificate produced could not have proved his disease and it cannot be called an adequate medical certificate whether it was issued by an ayurvedic, allopathic unani or homeopathic physician without disclosing the disease and treatment. Apparently, without adequate treatment diabetes cannot be controlled and it is a very debilitating disease.

3- Absenting for more than 15 years without providing an adequate single reason other than at the allegations of illness from diabetes, he had no further reason to sustain this application. Diabetes is not a disease which will prevent a human being unless it is of a very high-degree and

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from working with proper treatment, it is an easily controllable disease for which facilities are available in Railway Hospitals. We have no doubt that he had willfully absented himself from doing work and, therefore, on merit also, there is no ground left for the applicant to plead. All processes and procedural formalities have been complied with by the respondents in accordance with the rules of natural justice. Therefore, there is no merit in this O.A. it is, dismissed in view of the fact that the applicant is a unemployed man, we are not imposing cost on him. O.A. is thus dismissed

with no costs.
(Sudhir Kumar
AM)

Kb
(Dr.K.B.Suresh)
JM

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में से एक दस्ति दिए गए ०९-६-६६
को देखा ११ जून १९६६।

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अनुभाग अधिकारी