

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE OF ORDER: 4.12.1989

PRESENT

HON'BLE SHRI S. P. MUKERJI, VICE CHAIRMAN

&

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

O.A. 123/89

C. Sundara Raj Lawrence

Applicant

Vs.

1. Union of India represented by
General Manager, Southern Railway,
Madras-3,
2. Senior Divisional Personnel Officer
Southern Railway, Palghat-2 and
3. Divisional Railway Manager
Palghat

Respondents

M/s. B. Gopakumar & Chincy Gopakumar

Counsel for the
applicant

M/s. M. C. Cherian, Saramma Cherian
& T. A. Rajan

Counsel for
Respondents

ORDER

HON'BLE SHRI S. P. MUKERJI, VICE CHAIRMAN

The applicant has been working as a Boiler Khalasi at Erode in the Southern Railway when as a result of disciplinary proceedings he was removed from service for unauthorised absence. However, on his appeal, the appellate authority vide order dated 12.5.1983 considering his serious family problems granted him the benefit of doubt and directed that he should be re-appointed in service as a fresh entrant. It appears that though the

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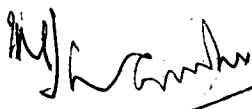
appellate order was addressed to the applicant, he did not join duty as a result of which the respondents passed another order on 22.2.1984 fixing a dead line for his joining duty on or before 5.3.1984 (Copy of this order dated 22.2.1984 at Annexure-I was endorsed to the applicant also at his residential address).

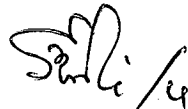
2. The applicant's case is that shortly after filing the appeal he had proceeded to stay with his sister and brother-in-law in Bombay between January, 1984 and April, 1986 and no communication was received by him about his reinstatement. Though according to the applicant he has been sending representations on 20.3.84, 22.3.84, 6.6.84, 8.8.84, 20.12.84, 20.2.85 and 30.6.85, the respondents have disowned having received any of these representations. According to them ^{the first} ^{of the applicant} representation received by the respondents was ^{of} 30.10.1986 (Annexure-R-1(b) in which no ^{reference} to his previous representations had been made. According to the respondents, he has not come up with clean hands to seek reinstatement.

3. We have heard the learned counsel for both the parties and gone through the documents. Without going into the assessment ^{of the veracity} ~~of the veracity~~ of the applicant's statement that he had ^{been} ~~had~~ diligently pursuing his appeal with the respondents but came to know of the order of reinstatement only in 1986, we feel that considering

his family problems and poor financial conditions, referred to by the appellate authority itself, a compassionate view could be taken. Considering also that the appellate authority had directed him to be reinstated as a fresh entrant, we close this application with the direction to the respondents that the applicant should be taken back in service as a fresh entrant in his original post or equivalent post if he reports for duty to the Senior Divisional Personnel Officer, Southern Railway, Palghat within a period of two months from the date of communication of this order.

4. There will be no order as to costs.


(N. Dharmadan)
Judicial Member
4.12.89


(S. P. Mukerji)
Vice Chairman
4.12.1989

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