

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 393/90
XXXXXX

199

DATE OF DECISION 19.10.90

Part. with
K Narayanan Applicant (s)

Mr P Sivan Pillai Advocate for the Applicant (s)

Versus

The Union of India rep. by Respondent (s)
the General Manager,
Southern Railway, Madras and 3 others

Mrs Sumathi Dandapani Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. NV Krishnan, Administrative Member.

The Hon'ble Mr. N. Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

Shri NV Krishnan, Administrative Member

The question is whether this application is barred by limitation.

2. The respondents contend that the order dated 14.11.84 terminating the services of the applicant as Casual Gangman and w.e.f. 7.8.84 was served on him very soon thereafter his acknowledgement was obtained on a copy of that order, a photo copy which has been produced as Annexure-R1.

3. As against the applicant's contention that there is no delay, an appeal preferred by him to Respondent-3 on 3.7.89 is still pending. That appeal was filed in the following circumstances as mentioned in his application.

"While working so under the permanent way Inspector, Mavelikkara, on 10.5.84 the applicant fell seriously ill and the matter was reported to all concerned and all the procedures regarding medical attendance and treatment were fully complied with. On 6.12.1984 applicant reported for duty with the fit certificate of the attending physician, before the permanent Way Inspector, Mavelikkara, his immediate superior and depo official. The permanent Way Inspector directed the applicant to the Assistant Divisional Medical Officer, Southern Railway, Kottayam and the ADMO/KTYM issued Duty Certificate No.109 of 7.12.1984 certifying the applicant fit for duty on 8.12.84. On 8.12.1984 while on the way to report for duty the applicant fell down and became ill again. He, therefore, reported sick again on 8.12.84 and underwent treatment for paralysis at the Govt. Ayurveda Hospital upto 31.5.1989. On 1.6.1989 applicant reported for duty with the fit certificate of the Government Doctor, before the Permanent Way Inspector, S. Railway, Mavelikkara and the applicant was informed that he was removed from service with effect from 7.8.1984 by the Assistant Engineer, S. Railway, Quilon. No order was served on the applicant even on that day when he reported for duty on 1.6.1989 nor the applicant was allowed to perform duties".

However, the applicant has also filed MP 411/90 to condone the delay that has occurred in this case,

4 In support of this submission, the applicant has produced a copy of the fitness certificate dated 7.12.84 stated to have been given to him by the Assistant Divisional Medical Officer, Kottayam and another Medical (Annexure A3) Government Certificate given by the Medical Officer, Ayurvedic Hospital, Kunnathur. (Annexure A4)

5 The learned counsel for the applicant urged many grounds on the basis of which he contended that the order dated 14.11.84 terminating his service was not served on him at all. In the view that we are taking in this case, we find it unnecessary to determine whether or not the order was served on the applicant immediately after its issue, as claimed by the respondents.

6 For, even accepting, for argument sake, the applicant's contention in this regard, we are of the view that he has not explained satisfactorily as to how earlier. he came to know about this order only on 6.12.89 and not / According to his version, a fitness certificate was given to him on 7.12.84 by the Assistant Divisional Medical Officer, Kottayam certifying him to be fit for duty from 8.12.84. He claims that on 8.12.84 itself while on his way to / report for duty he fell down and became ill again. In this circumstance one would have expected that he would have atleast intimated the PWI Mavelikkara ~~and~~ about this incident and sent him a copy of the fitness certificate given by the Assistant Divisional Medical Officer, Kottayam. One would also expected of him to have produced a certificate from / Doctor, Allopathetic under whom or Ayurvedic ~~and~~ he was undergoing treatment after the alleged fall on 8.12.84. The applicant has no such case.

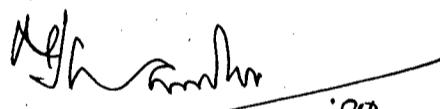
7 He has only produced a certificate Annexure A4 from the Medical Officer, Ayurvedic Govt. Hospital, Kunnathur which states that " the applicant is suffering from paralysis and panalu and that I consider that the period of absence from duty of 4 years, 5 months and 23 days w.e.f. 8.12.84 is absolutely necessary for the restoration of his health and is now fit to resume duties on 1.6.89".

L who is so specific about the period and that he was unable to move about. period from 8.12.84 to 31.5.89 / We are of the view that this Medical Certificate does not inspire confidence and

hold that there is no satisfactory explanation for the period from 8.12.84 till 1.6.89. The applicant could have got this information had he reported for duty at Mavelikkara with the fitness certificate of the Assistant Divisional Medical Officer, Kottayam on 8.12.84 or immediately thereafter.

8 We are of the view that the applicant has not established that he has received information about the order of termination only on 1.6.89 as alleged by him, possibly as he could have obtained a copy atleast at the end of December, 84.

9 MP 411/90 for condonation of delay is, therefore, dismissed. The original application is, therefore, rejected in limine.

 
(N Dharmadan) 19.10.90 (NV Krishnan)
Judicial Member Administrative Member

19.10.90