

18/6

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 350 of 1989(L)

Abdul Rashid . . . . . Applicant

Versus

Union of India & Others . . . . . Respondents

Hon'ble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr. K. Obayya, Member (A)

( By Hon'ble Mr. Justice U.C.Srivastava, VC)

As the pleadings are complete, the case is being disposed of finally.

2. The applicant was appointed as Bhisty on 26.6.1963 in the Commercial Department of North Eastern Railway in the scale of Rs. 75-80. Thereafter, he was transferred to Electric Department of North Eastern Railway vide order dated 27.11.1970. He remained absent for five years from 27.7.1983 to 5.3.1989. According to the applicant, he applied for sanction of Earned Leave for a period of 40 days w.e.f. 14.6.1983 to 23.7.1983 for the purposes of going to Haj pilgrimage, which was duly sanctioned, but he could not leave for Haj because of certain procedural problems and on 1.8.1983, he moved an application for grant of 200 days further leave for proceeding for Haj Pilgrimage. According to the applicant, he was never informed of any action that may have been taken on the application. Meaning thereby, as per his own case, he gave an application for grant of 200 days leave and thereafter, he never cared to ascertain that such a leave has been sanctioned or not and application has been reached to the proper authority or not. There is no denial of the fact that

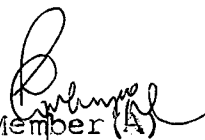
Contd..2/-


lu

A/X

:: 2 ::

and during this period he was in Saudi Arabia. He came back, / on 3.3.1989, he moved an application that he may be allowed to join the duty. It was thereafter, a charge-sheet was served to him on 19.5.1989, the substance of that charge sheet levelled against him was that he was unauthorisedly absent from duty for all this period without any authority and as such he contravened the provisions of Rule 3(1)(ii) and(iii) of the Railway Servants(Conduct) Rules 1966. The applicant submitted a reply to the said charge-sheet and enquiry proceeded. According to the applicant, he only received removal order, but from the counter-affidavit filed by the respondents it has been stated that efforts were made to see that applicant for participating the enquiry, but there being no option, of course, the enquiry proceeded and thereafter, being a clear case the finding was recorded. There was no provision for 200 days leave and more so, no such leave was ever sanctioned and the entire period was unauthorisedly/leave and the applicant was not explained after 200 days whether he cared to ascertain and whether he moved any application thereafter. It was not also stated any where what was he doing during all these years and whether he was in any gainful employment or not after having slipped out of the country and staying there for years together, the applicant is now claiming his right, although he has none. The enquiry was held and thereafter, he was removed from service. There is no fault and flaw in the enquiry or the action taken against the applicant. Accordingly, the application deserves to be dismissed and it is dismissed. No order as to costs.

  
Member (A)

  
Vice-Chairman

Lucknow Dated: 8.1.1993

(RKA)