

THE CENTRAL ADMINISTRATIVE TRIBUNAL-LUCKNOW BENCH
LUCKNOW.

O.A. NO. 31 of 1992.

Natha..... Applicant.

Versus

The Union of India & others..... Respondents.

Hon'ble Mr. Justice U.C.Srivastava- V.C.
Hon'ble Mr. K. Chayya - A.M.

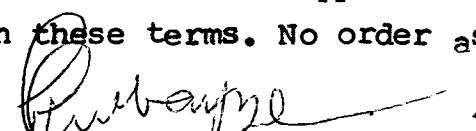
(By Hon'ble Mr.Justice U.C.Srivastava-V.C)

As a short question is involved in this case, the case can finally be disposed of. The parties have exchanged the pleadings of the case. Admit. The applicant entered in the service as ^{and} Khallasi was regularised as decasualised Khallasi w.e.f. 15.10.84. According to him prior to decasualisation he was medically examined in which he is said to have been passed. But according to the respondents he failed in the Medical Examination, but in collusion with the then Superintendant he continued to work and thus he has deceived the Railway Administration. According to the applicant he has been approaching the authority, but no action has been taken, and he is put out of this service without complying with mandatory provision of para 304 of the Railway Establishment Code and para 2609 of the Railway Establishment Manual. According to which even if he was medically unfit, he cannot be thrown out from service without providing him an alternate job.

2. The respondents have opposed this application and have stated that the applicant was found medically unfit, but concealed this fact. Although the certificate was in his knowledge and because of this concealment he continued to work inspite of the notice, a memo was issued, but even after issuance of memo the applicant did not offer himself

for medical examination and absconded on that date without performing any duty. The facts as stated above, it is clear that the applicant was medically decasualised under the relevant provisions of Railway Establishment Code and Manual, such medically decasualised of Khaliasies, they are to be offered an alternate appointment and the services are to be terminated only thereafter, not before that, but in this case it appears that the applicant continued to work and it appears that some one in the administration who was on league, with the result the applicant was allowed to continue in service, for which the applicant cannot solely be blamed. That the fact came to the notice of the Administration, he was asked to offer himself for medical examination, which it appears that he avoided though in the rejoinder affidavit it is stated that he was prepared to face the medical examination. In view of the fact that now the applicant is ready to face medical examination, let the applicant be medically examined again within a period of three months from today and may be provided an alternate job in case he is medically unfit for the category in which he was working.

4. As both the parties are responsible to some extent, the respondents to decide the intervening period as to whether the applicant should be granted leave without pay or the entire period should be treated as dies-non. In case he is continued in service, it is open for the respondent to declare the entire period beyond the date of memo was served as dies-non. The application is disposed of finally in these terms. No order as to the costs.


Member (A).
Dt: June 23, 1992.
(DPS)


Vice Chairman.