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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW.

O.A. No. 307/1990

Jeet Ram

Applicant.

versus

Union of India & others

Respondents.

Hon. Mr. D.K. Agrawal, J.M.
Hon. Mr. K. Obayya, A.M.

(Hon. Mr. D.K. Agrawal, J.M.)

This application can be understood in the context of O.A. No. 300/1989 decided on 20.3.90. The applicant was a Keyman. He was transferred from Gang No. 1 to Gang No. 2. However, he did not handover charge in Gang No. 1 and therefore, he was not allowed to join in Gang No. 2. O.A. No. 300/89 was filed by the applicant alleging that his services have been orally terminated. The employee denied that the services of the applicant were terminated at any point of time. They placed the correct facts before us. It was stated that the applicant was absconding and avoiding to handover charge in Gang No. 1, nor he was joining in Gang No. 2. It was further pleaded by/that he cannot be allowed to join in Gang No. 2 unless he hands over the charge in Gang No. 1. Therefore, we passed an order to treat the applicant on duty in Gang No. 2 with effect from the date he joins there after handing over the charge in Gang No. 1. We further directed that the applicant will not be paid salary for the period

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he has actually not worked. A further direction was made that the period for which the salary is not paid, will, however not be treated as break in service either for seniority purpose or for counting the continuity of service of the applicant for future promotions. The state of affairs remained the same i.e. the applicant has neither handed over the charge in Gang No. 1, nor joined Gang No. 2, instead the present application has been filed alleging the same facts that his services have been orally terminated. A further prayer is that he is entitled to promotion as Mate.

2. We have carefully considered the pleadings of the parties. However, we were deprived of the benefit of hearing the learned counsel for the applicant. Neither the applicant, nor his counsel appeared on the date of hearing. Opposite party No. 4 only appeared before us on the date of hearing.

3. Having given our careful consideration to the pleadings of parties, we are of the opinion that the present application is barred by principle analogous to res-judicata, as regards the relief contained in Clause I. As to relief contained in Clause II i.e. the promotion to the post of Mate from Gangman, we only observe at this stage that the applicant is not in employment as on date. He must first comply with our orders passed earlier referred to above, hand over the charge in Gang No. 1 and join Gang No. 2. Thereafter, he should make representation to the competent authority for promotion, if due. He can approach the Tribunal only

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after exhausting the departmental remedy. Therefore, we are not expressing our opinion about the question of promotion. We may also mention that necessary facts as to how the applicant was ~~not~~ entitled for promotion, has not been set out before us, therefore, we cannot consider the question of promotion in the present petition.

4. Therefore, the claim petition is disposed of as above in the light of above observations. No order as to costs.

A.M.

Dr. G. S. Agarwal
J.M. 24.4.91.

Shakil

Lucknow Dated: April, 24th, 1991.