

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY
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(8)

Original Application No.505/87

V. Pitchamani,
R/o. 5, Allarakha Chawl,
Poiser, Kandivali (West),
Bombay 400 067. ... Applicant

v/s

Union of India & Ors. ... Respondents

CORAM : Hon'ble Vice-Chairman, Shri U.C.Srivastava
Hon'ble Member (A), Shri M.Y.Priolkar

Appearances:

Mr. G.S.Walia, Advocate
for the applicant and
Mr. P.A.Pai, Advocate for
the respondents.

ORAL JUDGEMENT: Dated : 8.8.1991
(Per. U.C.Srivastava, Vice-Chairman)

The applicant was originally appointed as a Casual Labourer in the year 1972 in the Western Railway where he worked upto 1977. In 1978 he was appointed, as per his application, as a regular Khalasi. He proceeded on nine days earned leave from 22.8.1983 but he did not resume his duties and according to him as his mother was seriously ill he sent an application for extension of leave and for two years he was a patient of depression and physical ailment and was under the treatment of a private Psychiatrist whose certificate of fitness he has filed though he has not filed any document to show when he entered his treatment and what is the period during which that doctor's treatment was continued. The respondents have stated that because of continuous absence a charge sheet was served to the applicant and the charge sheet was returned back unserved. An Inquiry Officer was

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appointed and intimation was also given to him. But whatever steps had been taken by the respondents for effecting service on the applicant, the service could not be effected and registered letters also were received back as unserved.

2. Under these circumstances an exparte inquiry was held and the applicant was found guilty and was removed from service. The applicant thereafter filed a departmental appeal against the same but the same was also dismissed. Thereafter he approached the Tribunal. The learned counsel for the applicant contended that the Inquiry Officer's report was not given to him and the proceedings were thus vitiated for non-observance of the principle of natural justice and he made reference to the case of Ramzan Khan decided by the Supreme Court of India. The principle laid down in Ramzan Khan case will not apply in such cases where the applicant did not participate in the inquiry at all. Since all the letters sent to the applicant were returned back there was no question of serving inquiry officer's report. As such this plea is not available to the applicant. We have not found any other fault in the inquiry proceedings and consequently this is not a case for interference and the application deserves to be dismissed. However, in view of the fact that the applicant has not been charged for any serious misconduct or any conduct which may be called moral turpitude, the respondents may consider him, if possible, for fresh appointment. With the above observation, the application is dismissed with no order as to costs.



(M.Y.Priolkar)
Member(A)



(U.C.Srivastava)
Vice-Chairman