

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 789/87

XXXXXX XXXX XXXX XXXX XXXX XXXX

DATE OF DECISION 18-8-93

Shri V. Dayal Petitioner

Shri G.S. Walia Advocate for the Petitioners

Versus

Union of India Through General Respondent
Manager, Western Rly. Bombay & Ors.

Shri A.L. Kasturey Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice M.S. Deshpande, Vice -Chairman

The Hon'ble Shri Ms. Usha Savara, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *No*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

U.S. Savara
(Ms. Usha Savara)
Member (A)

NS/

(11)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. 789/87

Shri V.Dayal

.....

Applicant

vs

Union of India
Through General Manager,
Western Railway, Bombay
& Ors.

.....

Respondents.

Coram: Hon'ble Mr. Justice M.S.Deshpande, Vice-Chairman
Hon'ble Ms. Usha Savara, Member(A)

Appearance:

Mr.G.S.Walia for the
applicant.

Mr.A.L.Kasturey, for the
respondents.

Dated: 18-8-93

Judgement

(Per: Ms. Usha Savara, Member(A))

This application has been filed impugning letter dated 1.6.87 (Ex.I) by which his representation for payment of salary and allowances for the period 8.6.85 to 29.5.86 has been rejected.

The applicant was working as a Yard Supervisor at Agra in 1985. He fell sick on or about 8.6.85 and was under treatment of a Private Doctor. When he became fit to resume his duties, he brought his fitness certificate and submitted the same to the Railway Doctor as well as the Station Superintendent, Jamna Bridge who was his immediate supervisor. The Station Superintendent refused to take him on duty. On 1.10.85, the applicant met Respondent No.4 and apprised him of the facts, and he was orally informed that he had been transferred. Since he had not been served with any transfer order, he requested that he should be taken for duty (Ex.A) but received no reply. A legal notice was sent on 1.11.85 (Ex.B) and a letter was also sent to the Divisional Railway Manager, Kota

on 1.10.85. However no reply was received to either of the two letters. On 3.4.86, he received letter dated 27.3.86 informing him for the first time that he had been transferred to Bombay Division (Ex.D). The Divisional Railway Manager was informed that there were no enclosures to his letter. i.e. neither the transfer order nor a relieving order, which would enable him to join duty at Bombay Central. The applicant then approached the Divisional Office, Kota on or about 28.5.86 to issue a Duty Pass (Ex.F). On receipt of the Pass, he joined duty on 29.5.86. Shri Walia, learned counsel for the applicant submitted that as the applicant had not been allowed to resume duty and was kept away from work for no fault of his, he was entitled to the pay and allowances for the period from 8.6.85 to 27.5.86.

A reply has been filed by the respondents. The transfer was made as per directions of the Vigilance Department of Western Railway, as the applicant had got involved in a criminal case under Section 420 and 406 of the I.P.C. It is the case of the respondents that the applicant had not performed any duties, and had absented himself from 8.6.85 without obtaining any leave or giving an intimation and he did not join at the new place of posting, where he was transferred / 18.5.85. In pursuance of this order, he was transferred to Bombay Division by order dated 7.6.85, but he absented himself to avoid service of the order. On 11.7.85, the transfer order and the duty pass was handed over to the applicant's daughter, and he was deemed to have been relieved on transfer to Bombay on 11.7.85. In the circumstances, the applicant cannot contend that he had no knowledge of the transfer, and that he was made to sit idle.

(b)

The crux of this application is whether any attempt was made to serve the applicant with the order of transfer and the Duty Pass. Shri Kasture, learned counsel for the respondents was given ample opportunity to get the records from Kota, but he has conceded fairly that he is unable to adduce any evidence in support of the claim that the transfer order and Duty Pass was served on the daughter of the applicant.

In the circumstances, the application succeeds. The respondents are directed to pay to the applicant full salary and allowances for the period from 8.6.85 to 27.6.86 within 2 months of receipt of a copy of this order. There will be no order as to costs.

U. Savare
(Ms. Usha Savare)
Member(A)

M.S. Deshpande
(M.S. Deshpande)
Vice-Chairman