

(S)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: O.A.545/88

Transfer Application No: xxxxxxxxxxxxxx

DATE OF DECISION 2.3.93

Vinod alias Vinayak ----- Petitioner
Vishnu Thorawade

Mr. Umesh Nabar ----- Advocate for the Petitioners

Versus

General Manager ----- Respondent
India Govt. Mint, Bombay

Mr. V.S. Masurkar ----- Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice S.K.Dhaon, Vice Chairman

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

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

No.

Handwritten signature
M(A) 2.3.93

trk

NS/

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY

O.A.NO.545/88

VINOD ALIAS VINAYAK

VISHNU THORAWADE

C.R.R.B.I.

Building no. 248/13 Parel

Bombay 400012

Applicant

V/s

General Manager

India Government Mint

Shahid Bhagatsingh Road

Bombay 32

Respondent

Coram: Hon.Shri Justice S.K.Dhaon, Vice Chairman

Hon. Ms. Usha Savara, Member(A)

APPEARANCE:

Mr. Umesh Nabar

Counsel

for the applicant

Mr.V S Masurkar

Counsel

for the respondents

ORAL JUDGMENT:

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

DATED: 2.3.1993

The applicant who was working as a Fitter in the India Government Mint, Bombay has filed this application praying for quashing the impugned order dated 30.5.1981 (Ex. 'F') and the letter dated 26.10.1987 (Ex. 'J') by which his services were terminated and the respondents rejected his representation for reinstatement. The applicant joined the respondents in 1974 and was in continuous employment till 1980 when he was compelled to take leave on health grounds. He was advised complete bed rest as he was suffering from T.B. and therefore was unable to attend the office.

w

2. He received memo dated 30.1.1980 directing him to report for duty within ten days otherwise he would be liable for strict disciplinary action. An inquiry under rule 22 of India Government Mint, Bombay Standing Orders, was held against the applicant, an Inquiry Officer was appointed, a presenting officer was provided. In the charge sheet issued to him he was charged for remaining absent for 108 days during 11.6.1979 to 29.2.1980 without permission or due intimation. He admitted the charges framed against him and requested that a lenient view may be taken. He was let off with a warning but was informed that any repetition of similar offence in future would render him liable for severe disciplinary action. Unfortunately due to ill health he continued to remain absent from duty without leave and permission and, therefore, he was struck off from the roster of the Mint with effect from 30th May 1981.

3. A reply has been filed on behalf of the respondents. The facts are undisputed. A preliminary objection is taken that the application is barred by limitation. Shri Masurkar, the learned counsel for the respondents, submitted that the applicant made a representation after a lapse of $2\frac{1}{2}$ years for taking him back on duty. But after careful consideration he was informed that his request could not be acceded to. He had been given ample opportunity to improve his attendance and not to absent himself without proper intimation, but he had not shown any improvement. The punishment was imposed after due consideration of all facts and, therefore, the applicant is not entitled for any relief in this application.

4. We have heard the learned counsel for the opposite parties. There is no doubt that the applicant has behaved in an irresponsible manner in so far as he remained absent from duty without prior permission. The respondents had taken a lenient view in 1980 when an inquiry was held and let him off with a warning. But unfortunately he continued to remain absent without leave and therefore his name was

LS

8


3


struck off from the roster. The applicant has two minor children and is facing lot of financial difficulties and the family is starving. There is no doubt that he was suffering from T.B. and the Doctor declared him to be in the third stage. Therefore he was unable to attend to his duties. We feel that a compassionate view can be taken in this case as it is a matter of extreme hardship to the applicant. It is stated by the counsel for the applicant at the Bar that the applicant would be satisfied if the direction is given to the respondents to consider him for the post of Fitter, as he is duly qualified for that job.

5. Taking into consideration the extreme hardship of the applicant, we give the following direction:

The respondents are directed to give a fresh appointment to the applicant within a period of four months from the receipt of a copy of this order. As a special case, the respondents will relax the age limit in the case of the applicant, but he will not be entitled to backwages as this is a fresh appointment.

6. The application is disposed of with the above direction, but without any order as to costs.


(Usha Savara) 2.3.93
Member(A)


(S.K. Dhaon)
Vice Chairman

trk