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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

Original Application No.187/88

Vijay Uddhav Bhalerao Applicant

vs

1. The General Manager
High Explosives Factory,
Kirkee, Pune-3
2. The Chairman
Ordnance Factories Board,
10-A Auckland Road,
Calcutta-700-001 ... Respondents.

Coram: Hon'ble Mr. Justice U.C.Srivastava,
Vice-Chairman

Hon'ble Mr. M.Y.Priolkar, Member(A)

Dated: 18-3-1991

Advocates:

Ms.K.U.Nagarkatti,
for the applicant

Mr. R.K.Shetty,
for the respondents.

Judgement
(Per: Hon'ble Mr. Justice U.C.Srivastava, Vice-Chairman)

Starting her arguments Ms. Nagarkatti, applicant's advocate stated that in case this application is allowed and respondents' impugned order set aside, the applicant will not claim any back wages. The applicant was an employee of the Explosive Factory, Kirkee, Pune where he joined in 1973 as a Chemical Process worker. During the course of his employment he met with an accident on 15-7-78 as a result of which his face sustained severe acid burn injuries caused by the deadly corrosive concentrated Nitric Acid. The accident was established to have been not due to his negligence. After prolonged hospitalisation for treatment, healing, convalescence, re-constructive surgery between 1978-82 at Command Hospital Pune, he was rendered and declared fit to join his official duties w.e.f. 24.9.82. He was paid compensation of Rs.13,440/-

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on 24-7-82, under the Workmen's Compensation Act.

Between 1983-85 the applicant absented himself without moving any application for leave. In 1983 he was absent for 162 days, in 1985 he was absent for 292 days. He absented himself from duty w.e.f. 27th July 85 without prior sanction of the leave even though on earlier occasion he was censured and disciplinary proceeding started against him. The applicant had submitted Medical Certificate to show because of illness he could not resume his duties, between 27-7-85 to 28-8-85.

2. The applicant submits that he could not complete the treatment of Private Doctor and that medical certificate was also submitted. In the light of his unsatisfactory conduct he was removed from service and he approached this Tribunal.

3. The application has been strongly opposed by Shri R.K.Shetty, advocate for the respondents submitting that the applicant's conduct is such that he does not deserve any consideration, even otherwise also he is not sound and fit for any employment.

4. Applicant's advocate submitted that due to illness he had to suffer economically, and this aspect should be taken into consideration for giving/certain type of light work. His disability should not have been treated in a harsh manner. There should be some consideration for the relief of a person who is suffering from disability.

5. The punishment meted out that for the period he is out of service he will not claim back wages should be, in our view, more than sufficient in this case. As such in the circumstances, order No.4025/33/85/VIG/LB/HEF dated 11th December 1985 is quashed with the directions that the applicant will be taken back in service, posting him elsewhere by giving him light duty. He may be taken back in service

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within 6 weeks time. He will not be entitled for the back wages as stated by the learned counsel in this case. But the previous service should qualify for the pensionary benefits. In the circumstances, there will be no order as to costs. Learned counsel contends that in case he repeats his past conduct, the employer will be free to terminate his services. It is for the employer to decide this in accordance with law and no observation in this behalf is considered necessary from us at this stage.

u/s
(M.Y.Priolkar)

Member(A)

u/s
(8/28)

u/s
(U.C.Srivastava)

Vice-Chairman