

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

Stamp Application No. 500/89.

O.A. No. 198

T.A. No.

DATE OF DECISION 20.9.1989

Shri K.K.Pujari

Petitioner

Shri G.S.Walia

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Shri N.K.Srinivasan.

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.B.Mujumdar, Member(J),

The Hon'ble Mr. P.S.Chaudhuri, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
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?]

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
NEW BOMBAY BENCH, NEW BOMBAY.

Stamp Application No.500/89

Shri K.K.Pujari

.. Applicant

v/s.

Union of India & 2 Others.

.. Respondents

Coram: Hon'ble Member(J), Shri M.B.Mujumdar
Hon'ble Member(A), Shri P.S.Chaudhuri

Appearance:

1. Mr.G.S.Walia,
Advocate
for the applicant.
2. Mr.N.K.Srinivasan,
Advocate
for the respondents.

ORAL JUDGMENT: -

Dated: 20.9.1989

(PER: Shri M.B.Mujumdar, Member(J))

In this application the applicant says that he was working as a Fitter in Carshed(Line) in Bombay Division of the Western Railway. According to him on 1.9.1988 when he reported for duty at Borivali Yard he was not allowed to sign the duty register on that day. When the applicant asked for the reason from Shri S.G.Pawar, Chargeman, he refused to say anything and the applicant was not allowed to work upto 03.00 a.m. Thereafter he requested the Divisional Electrical Engineer, Shri Mohan, to furnish the reason as to why he was not allowed to sign the duty register and as to why he was not allowed to work. On 3.9.1988, however, the applicant signed the duty register at Borivali and proceeded to perform his duties in Virar Yard. However, on that day at about 03.00 a.m. he was again told not to work and go home without assigning any reason and in his place another Fitter Shri Chandrakant A was ordered to perform his duties. The applicant sent

an advocate's notice dated 21.1.1989 to the Divisional Railway Manager and Senior Divisional Electrical Engineer(RS), Carshed Bombay Division. No reply was received to that notice. After waiting for a long time the applicant has filed this application on 3.8.1989 under Section 19 of the Administrative Tribunals Act, 1985 praying that the respondents be directed to take him on duty immediately and for directing the respondents to pay all the back wages for the period from 1.9.1988 till he is taken on duty with all consequential benefits.

2. Just now we have heard Mr.Walia, learned advocate for the applicant and Mr.N.K.Srinivasan, learned advocate for the respondents.

3. Mr.Srinivasan refuted the allegations made in the application. He showed us a charge sheet dated 10/14.2.1989 which was sent to the applicant. The first charge is that the applicant has remained unauthorisedly absent from 28.9.1988 and the second charge is that he had not observed proper rules for obtaining leave. The charge sheet was returned back unserved with postal endorsement "Left R to sender". Mr.Srinivasan states that the respondents would serve a fresh charge sheet on the applicant after making necessary modifications.

4. However, it is clear that the respondents have not passed any order terminating the services of the applicant. Mr.Srinivasan stated that the respondents are prepared to allow the applicant to join duty immediately. Mr.Walia stated on instructions from the applicant who is present before us that the applicant will join his duties tomorrow. He further stated on

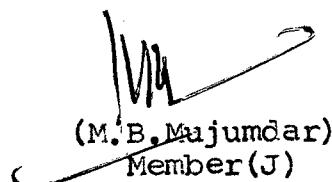
instructions from the applicant that the applicant was not sick and that he is fit to join his duties. Hence we admit this application and pass the following orders.

O R D E R

- (i) The applicant to report for duty on 21.9.1989 at 07.00 a.m., i.e. at the start of General Shift, at the office of the Shop Superintendent(Line), Carshed, Bombay Central. The respondents to take him on duty, if the applicant so reports.
- (ii) As regards back wages from 1.9.1988 till the applicant joins duty, the respondents should pass appropriate orders on the basis of the decision of the disciplinary proceedings which they may hold against the applicant and in accordance with rules.
- (iii) The application is disposed of on the above lines with no order as to costs.



(P.S. Chaudhuri)
Member(A)



(M.B. Majumdar)
Member(J)