

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

ORIGINAL APPLICATION NO. 907/89.

Shri Subramanyam Armugam,

... Applicant.

V/s.

Union of India & Ors.

... Respondents.

Coram: Hon'ble Member(J), Shri M.B.Mujumdar,
Hon'ble Member(A), Shri M.Y.Friolkar.

Appearances:

Mr.D.V.Gangal, advocate
for the applicant and
Mr.Subodh Joshi, advocate
for the respondents.

ORAL JUDGMENT:-

(Per Shri M.B.Mujumdar, Member(J)) Dated: 23.1.1990

The applicant joined as a Casual Labourer (Khalasi) on 1.4.1982 under the Permanent Way Inspector at Panvel. He worked continuously with some breaks there upto 26.2.1987. On 26.2.1987 he went on Earned Leave and was also given free pass from Bombay V.T. to Kanyakumari which is his native place. After teaching there he fell sick and could not resume his duties after expiry of the leave. The applicant has produced certificate dt.4.8.1989 issued by Dr.K.M.Rajendran, M.D. who is working as Authorised Medical Attendant at the Government hospital at Vriddhachalam. The certificate shows that the applicant was suffering from Chronic Depressive Psychosis and was under his treatment from 13.3.1987 to 6.8.1989. The certificate further shows that the applicant was completely recovered from his illness and he was fit for journey and to rejoin his duties on 7.8.1989.

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When he tried to resume his duties at Panvel on 7.8.1989 he was not taken on duty by the Officer concerned by informing him that his services were already terminated.

2. It appears that thereafter there was some letter sent by the Chief Engineer(C) Panvel to the Chief Personnel Officer (E), Headquarter Office at Bombay V.T. ~~That~~ the letter from the Chief Engineer(C), Panvel dt. 22.9.1989 is not on record, the reply of Chief Personnel Officer (E) dt. 7.11.1989 is on record and it shows that the Chief Personnel Officer (E) had informed Chief Engineer (C) Panvel that the action in terminating the services of the applicant as Khalasi was not correct since the rules cannot be made applicable in his case. ~~was~~ The Chief Engineer, Panvel further advised by the same reply to take back the applicant on duty with duty certificate of the Railway Doctor and disciplinary action may be taken against him for his non-observance of prescribed medical rules and leave rules, etc. separately in terms of Railway Board's instructions. As no steps were taken by the Chief Engineer, Panvel the applicant has filed this application on 4.12.1989 praying ~~for~~ (a) To declare that the applicant is entitled to be reinstated in service with full back wages w.e.f. 7.8.1989 by treating the entire period as continuous service, (b) To declare that the order of termination of service/removal from service as void and illegal.

3. Today, the case is fixed for admission and if possible for final hearing.

4. We have just now heard Mr.D.V.Gangal, learned advocate for the applicant and Mr.Subodh Joshi, learned advocate for the respondents.

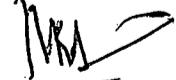
5. We are told on behalf of the respondents that there is no order in writing terminating the services of the applicant. Probably as the applicant had not turned up

for joining his duties after the expiry of leave his name must have been strucked off from the Muster Roll. But the applicant had served from 1.4.1982 till 26.2.1987. Hence he had acquired temporary status. That is why the Headquarters Office had advised the Chief Engineer, Panvel to take back the applicant on duty and initiate appropriate disciplinary proceedings against him. Hence we hold that the termination of the service of the applicant or striking his name from the Muster Roll was illegal. The proper course should have been to take him back in service and take proper disciplinary action for his absence, if found proper. We therefore, admit this application and pass the following orders.

O R D E R

- 1) The respondents are hereby directed to refer the applicant to appropriate Railway Doctor for ascertaining whether he is fit to join duties or not, latest within 15 days from the date of receipt of a copy of this order.
- 2) If the Railway Doctor certifies that the applicant is fit to join duties, then the respondents shall forthwith reinstate him in service as Casual Labourer (Khalasi) and pay him his salary and allowances w.e.f. 7.8.1989.
- 3) The Respondents will be at liberty to take disciplinary action against the applicant, if they find it proper, for remaining absent from the expiry of Earned Leave till 7.8.1989.
- 4) Parties to bear their own costs.


(M.Y. PRIOLKAR)
MEMBER(A)


(M.B. MUJUMDAR)
MEMBER(J).