

(7)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A.97/89

Narain Bhagchand Vachhani,
Block No.3, Room No.6,
Sindh Seva Samiti Nagar,
G T B Nagar, Sion,
Bombay - 400 037.

.. Applicant

vs.

1. Union of India
through
General Manager,
Central Railway,
Bombay V.T.
2. Chief Personnel Officer
(Engineer/Construction)
Central Railway,
Bombay V.T.
3. Deputy Chief Engineer
(Engineer/Construction)
Central Railway,
Panvel.

.. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava, Vice-Chairman
Hon'ble Shri M.Y.Priolkar, Member(A)

Appearances:

1. Mr.E.K.Thomas
Advocate for the
Applicant.
2. Mr.J.G.Sawant
Advocate for the
Respondents.

ORAL JUDGMENT: Date: 3-6-1991
(Per U.C.Srivastava, Vice-Chairman)

The applicant has approached this
Tribunal against the action of the respondents
in not allowing him to resume his duty.

2. The applicant was Inspector of Works
in the Central Railway. According to him on 1-7-1982
he applied for leave. His application for grant of
leave was rejected and he remained absent. Some 6½
years thereafter viz. on 8-12-1988 he came back from
long absence and reported before the Divisional
Medical Officer. The Divisional Medical Officer
Byculla certified that he was fit to resume duty.
It was thereafter he reported to respondent No.3
for permission to resume his duty but he was not


allowed to resume duty. Thereafter he approached this Tribunal., even before any action could be taken against him by the respondents. It is significant to note that the applicant has not stated anywhere in his application as to what he was doing during this 6½ years and where he was staying. The nature of the ailment has not been disclosed and no medical certificate for this period whatsoever has been filed by him.


3. The respondents in their counter affidavit has stated that the applicant is guilty of concealment of material facts and he is not entitled to claim any relief from the Tribunal. It has been stated first he applied for 10 days leave on 16.9.1981 on the ground of his mother's sickness. Thereafter he applied for extension of leave from 27-9-1981 to 10-10-1981 on the ground of death of his mother and for performance of religious rites. He again requested for extension of his leave upto 31st March, 1982 on the same ground. Not satisfied ~~that~~ ~~he~~ with it he again requested for extension of leave from 1-4-1982 to 30-6-1982 on the ground of certain unavoidable family circumstances, but did not resume duty on 1-7-1982 and it was on 1-7-1982 he again applied for extension of leave for six months upto 31-12-1982. All these intervening facts have not been stated by the applicant.

4. Obviously this concealment of fact is enough to reject this application. Any how on merits we have found that after rejection of his application for leave from 1-7-1982 to 31-12-1982 he was asked to report for duty immediately vide letter dtd. 31.8.1982. The applicant, it appears, kept mum and by another letter dtd. 28/29.4.1983 he was asked to report for

duty as he was unauthorisedly absent from duty and did not care to inform the office about his whereabouts. He was also informed that he is being treated as unauthorisedly absent from duty and his case shall be dealt with under Rule 732-II of the Leave Rules applicable to Indian Railway Establishments. This letter came back with the remark "Not found." A chargesheet was issued under Rule 9 of the Railway Servants(Discipline & Appeal)Rules,1968 on 29-6-1985 on the charges of long unauthorised absence from duty. It appears that during all this period he has not given his whereabouts and did not report to the Railway Medical Officer regarding his ailment. All of a sudden he appeared on 8.12.1988. The certificate which has been so filed ~~xxxxx~~ does not disclose or anything regarding his long absence ~~from~~ his previous ailment. The conduct of the doctor who has issued the certificate is also susceptible and it is for the railway administration to take action against such Doctor who issues certificates of this nature.

5. It is not necessary to enter into any other grounds as these facts are enough to reject this application. It appears that the applicant in order to stall the respondents from taking any action has approached with such an application before the Tribunal concealing relevant facts. The application is accordingly rejected. There will be no order as to costs.


(M.Y. PRIOLKAR)
Member(A)


(U.C. SRIVASTAVA)
Vice-Chairman