

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO:562/99

FRIDAY the 5th day of NOVEMBER 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman

Hon'ble Shri B.N.Bahadur, Member (A)

Virendra Rai
Residing at
C/o Satyendra Rai
Gautam Nagar, Room No. 519
Akurli Road, Kandivli (E)
Mumbai

...Applicant

By Advocate Shri G.S.Walia.

V/s

1. Union of India through
General Manager,
Western Railway
Head Quarters office
Churchgate
Mumbai.
2. Asstt. Secretary (G)
Western Railway
Head Quarters office
Chcuchgate,
Mumbai.

... Respondents.

By Advocate Shri V.S.Masurkar.

ORDER (ORAL)

{Per Shri Justice R.G.Vaidyanatha, Vice Chairman }

This is an application filed by the applicant alleging that the respondents have terminated the services of the applicant and they are not allowing him to join duty. The respondents have filed reply opposing the application. We have heard Shri G.S. Walia counsel for the applicant and Shri V.S.Masurkar counsel for the respondents.

2. Admittedly there is no order of termination against the applicant. But the grievance of the applicant is that he ~~was~~ not allowed to join the duty. That is how ^{he} apprehended termination and therefore approached this Tribunal. In fact the Tribunal has made an observation on 27.9.1999 to the effect that the applicant is willing to attend the office, But he has not been taken on duty. The applicant has also given representation to take him on duty. He has not received any reply.

3. The stand of the respondents is that they ^{have} are not terminated the applicant but the applicant has not ~~attended~~ the duty from 4.2.1999. They have issued a charge sheet on 22.6.1999 alleging the absence from 4.2.1999. The applicant has now received the charge sheet during the pendency of the OA.

4. There is no order of termination. It is also an admitted fact that applicant was confirmed temporary status with effect from 3.2.1999, As ^{could} may be seen from page 11 of the paper book. According to Railway Rules he will be governed by Railway Servant (Discipline and Appeal) Rules 1968. Therefore, the applicant's service cannot be terminated except by taking disciplinary action according to rules.

5. In view of the admitted fact, there is no difficulty to hold that the applicant is entitled to continue in service in accordance with law. On this, counsel for the respondents submits that though applicant is entitled to join duty, the administration will have necessary powers to ^{order} give suspension or to pass any appropriate orders. Needless to say that administration can pass any order as long as it is in accordance with law.

JW

with law. The respondents are directed to take applicant on duty subject to applicant facing disciplinary enquiry according to rules.



6. In the result, the OA. is disposed of at the admission stage with a direction to the respondents to take applicant on duty with immediate effect. The question of payment of salary and allowances from 4.2.1999 till today is a matter which has to be decided by the competent authority during the disciplinary enquiry. The applicant is directed to report on duty to APO, R & T, Headquarters with copy of this order. In the circumstances of the case, there will be no order as to costs.

B.N.Bahadur

(B.N.BAHADUR)

MEMBER (A)

R.G.Vaidyanatha

(R.G.VAIDYANATHA)

VICE CHAIRMAN

NS.

C.P. No. 48/99 is
fixed for order on
22.11.99.
(Urgent Circulation)
kept in 1st folder

22.11.99

Applicant by Shri G.S.Walia.
Issue notices to the respondents,
returnable on 6.12.99.
Dasti.

gsm
(S.L.Jain)
m(J)

gsm
(D.S.Baweja)
m(A)

Notices issued to
Applicant/Respondents on
25/11/99

OA 562/99 (24) Dated: 6.12.1999

Shri G.S.Walia counsel
for the applicant. Shri K.R.Yelwe
for Shri V.S.Masurkar counsel
for the respondents.

On the request of counsel
for the respondents further one
week's time allowed for filing
reply. List the case for final
hearing on 13.12.1999.

gsm
(S.L.Jain)
Member(J)

NS

gsm
(D.S.Baweja)
Member (A)

13/12/1999-11

Shri G.S.Walia, Counsel for
Applicant. Shri V.R.Masurkar, Counsel
for Respondents.
Counsel for respondents
mentions that as per order dated
6/11/99, the applicant has
joined suit. Shri Walia seeks time to
check up. List for orders on
20/12/99.

gsm
S.L.Jain
m(J)

gsm
D.S.Baweja
m(A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

C.P. NO. 48/99 in OA.NO. 562/99

Monday this the 20th day of December, 1999.

CORAM : Hon'ble Shri D.S.Baweja, Member (A)

Hon'ble Shri S.L.Jain, Member (J)

Virendra Rai

... Applicant

By Advocate Shri G.S.Walia

V/S.

1. Shri V.D.Gupta,
General Manager
or his successor in office
Western Railway,Churchgate,
Mumbai.

2. N.K.Nanu,
A.P.O. (R&T)
or his successor in office
Western Railway,Churchgate,
Mumbai.

... Respondents

Tribunal's Order

(Per : Shri D.S.Baweja, Member (A))

Applicant by Shri G.S.Walia. Respondents by Shri
V.S.Masurkar.

2. This C.P. has been filed by the applicant alleging
non-compliance of the order dated 5.11.1999 in OA.NO.562/99.

: 2 :

3. Notices were issued to the respondents. However, no reply has been filed by the respondents.

4. Heard Shri G.S.Walia for the applicant and Shri V.S.Masurkar for the respondents.

5. Shri Masurkar has brought out that the applicant has since been taken back on duty and he has also joined on duty on 6.12.1999. Thus, there is a compliance of the order and Shri Walia confirms the same. Shri Walia states that the applicant is required to be taken on duty from the date of judgement, i.e. 5.11.1999 and therefore he is entitled to payment of salary from 6.11.1999 till 5.12.1999.

6. In view of the above, we do not find that there is any case for contempt of court and therefore the C.P. does not survive. C.P. stands dismissed. Contempt notices are discharged. However, it is provided that the respondents will take urgent action and within a period of one month from today to arrange payment to the applicant for the salary for the period from 6.11.1999 to 5.12.1999.

(S.L.JAIN)
MEMBER (J)

mrj.

(D.S.BAWEJA)
MEMBER (A)