

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE 10TH DAY OF OCTOBER, 1988

PRESENT : HON'BLE SHRI P.SRINIVASAN ... MEMBER(A)

HON'BLE SHRI CH.RAMAKRISHNA RAO .. MEMBER(J)

ORDERS ON I.A.NO.II

APPLICATION NO.445/1987(F)

D.Prakash Rao
S/o.D.Samuel, 28 years,
LTI No.121, CPC Khalasi,
Under ICW Workshop,
South Central Railway,
HUBLI.

... APPLICANT

(Shri S.M.Babu, Advocate)

Vs.

1. The Senior Divisional Engineer II,
Works Branch, South Central Railway,
Hubli Division, Hubli-20.

2. Sr.Divisional Personnel Officer,
Personnel Branch, S.C.Railway,
Hubli Division, Hubli-20.

3. The Inspector of Works,
Works Workshop, S.C.Railway,
Hubli-20.

... RESPONDENTS

(Shri M.Sreerangaiah , Advocate)

This application having come up for hearing before
this Tribunal to-day, Hon'ble Shri P.Srinivasan, Member
made the following :

ORDER

This is an interlocutory application filed by the
applicant in A.No.445/87 which was disposed of by us on
28.9.88. The prayer in that application was that

P. Srinivasan



the applicant be continued in service at Hubli in the office of the respondents. The respondent therein resisted the prayer stating that even though the applicant was offered fresh appointment and actually joined on 4.3.87, he had absented himself thereafter for an indefinite period and ^{He had} was therefore been struck off from the muster roll. After hearing both parties we directed in our order that (1) the applicant should report for duty to PWI Kudchi and (2) if he did so before 14.10.87 the respondents should take him back on duty. We also stated that if the applicant did not report for duty before 14.10.88, he would not be eligible for appointment thereafter.

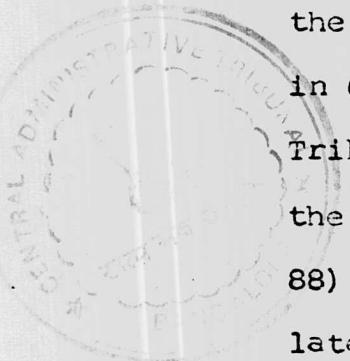
In this application the applicant seeks extension of time for reporting for duty on the ground that when he reported for duty in obedience to our earlier order before 14.10.87, he was not allowed to join.

Sri S.M. Babu, learned counsel for the applicant, submitted that when the applicant went to report for duty on 30.9.87, he was told that he could not be given fresh appointment till a copy of our order dated 30.9.88 was served on the respondents. The applicant then met the next higher authority on 3.10.87 (wrongly stated as 2.10.87 in the application) but this was also in vain. The copy of our order in A.No.445/87 was received by the applicant only on 29.10.87 when he approached the authorities again. They declined to entertain him at that stage because he had reported for duty after the expiry of time stipulated in our order i.e. 14.10.87. The applicant was ill between

P. J. S. B.

October 87 and June 88 when he could not take any further action. He filed a fresh application before this Tribunal on 11.7.1988 (CA No. 1034 of 1988) in which he sought a direction to the respondents to take him back to duty as a casual labourer in IOW Workshop Hubli on the same terms and conditions on which he had worked earlier. Meanwhile, he was advised to seek extension of time to report for duty beyond 14.10.87 in Application No. 445 of 1987 itself. He then filed the present I.A. which was on 19.9.88. The applicant had been prevented from reporting for duty before the date mentioned in our original order for no fault of his. Sri Babu therefore, submitted that we should allow him extension of time to report for duty now and should direct the respondents to take him back to duty.

Sri M. Sreerangaiah, learned counsel for the respondents, submitted that the applicant could not have reported for duty on 30.9.87 as alleged nor could he have met the next higher authority on 3.10.87, since both days were holidays. The applicant had therefore not fulfilled the requirements set out in our earlier order. Moreover, he should have sought extension of time much earlier than he has done. If the authorities had refused to take him back to duty in October 87 as alleged, he could have come to this Tribunal within a month thereafter at the most. On the other hand, he filed a fresh application (CA 1034/88) as late as on 11.7.88 and the present I.A. still later i.e. on 17.9.88. The applicant has therefore not



P. J. V. R.

been diligent in pursuing his rights and does not deserve to be granted the prayer for extension of time.

We have considered the contentions of both sides very carefully. Apart from the controversy whether the applicant did, in compliance with our earlier orders, report for duty either on 30.9.87 or 3.10.87 as alleged by him, he has certainly been guilty of inordinate delay in approaching this Tribunal, for extension of time. As stated by Sri M. Sreerangaiah if he had not been allowed to join duty on 3.10.87 he should have approached this Tribunal within a reasonable time thereafter, particularly since he was then without any means of livelihood. Sri Baku's contention that the applicant was ill from 2.10.87 to 16.6.88 is not acceptable as a reason for delay in filing the I.A. Since he was out of employment he should have contacted his lawyer and moved this Tribunal. It does not appear that he was so ill that he could not have done this. Even so, the illness is said to have continued till 16.6.88 but A.No.1034/88 was filed nearly a month later on 12.7.88 and the present I.A. on 17.9.88. We cannot therefore escape the feeling that the applicant was not really keen on obtaining employment with the respondent and that is why he did not approach this Tribunal earlier.

In view of the above, we feel that this I.A. does not deserve to be allowed. We, therefore, reject the I.A.

P. D. 182

However, we may refer to an order passed by us in A.No.1820/86, originally filed by the applicant as a Writ Petition before the High Court of Karnataka. That application was against a letter dated 1.6.82 issued by the Senior Divisional Engineer, Hubli stating that his services would not be required from 1.7.82. When that application was being heard, the respondents informed us that the applicant would be provided alternative employment, in accordance with his seniority among the retrenched temporary employees. In view of this assurance, we dismissed that application expressing the hope that the Railway authorities would accommodate the applicant in some other employment wherever work was available. When saying so we did not say that the applicant should be given employment in Hubli only but that he might be accommodated wherever employment was available. We hope that assurance still remains valid. Sri M.Sreerangaiah at this point explained to us that the applicant was indeed offered appointment in Kudchi but he left the job immediately after joining duty on 4.3.1987 and then filed A.No. 445/87 to which we have ^{alluded} attended earlier. We would like to make it clear that the applicant cannot chose the place of his posting and insist on being posted at Hubli only.

Taking an overall view of the facts, we would still hope that the Railway authorities will examine with sympathy the possibility of offering employment to the applicant wherever it is available and not necessarily Hubli.

P. S. - 49

With the above observations I.A. is rejected.

Parties to bear their own costs.

Sd/-

P. Srinivasan
MEMBER (A)

Sd/-

CH. RAMAKRISHNA RAO
MEMBER (J)

TRUE COPY

Jeevi
SECTION OFFICER 1710
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

