

(7)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 125/90

Transfer Application No:

1994
DATE OF DECISION: 29.3.1990

Smt.S.S.Kadam.

Petitioner

Shri G.S.Walia.

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Shri N.L.K.Srinivasan.

Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,

The Hon'ble Shri M.R.Kolhatkar, Member(A).

1. To be referred to the Reporter or not? *MM*
2. Whether it needs to be circulated to other Benches of the Tribunal? *MM*

.....
(M.S.DESHPANDE)
VICE-CHAIRMAN

(8)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH.

Original Application No. 125/90.

Smt. S.S.Kadam.

.... Applicant.

V/s.

Union of India & Ors.

.... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,
Hon'ble Shri M.R.Kolhatkar, Member(A).

Appearances:-

Applicant by Shri G.S.Walia.

Respondents by Shri N.K.Srinivasan.

Oral Judgment:-

[Per Shri M.S.Deshpande, Vice-Chairman] Dt. 29.3.1994.

The only question which arises for consideration in this application is whether the applicant should be awarded wages for the period from the date on which she produced fitness certificate i.e. 6.5.1989 and made an application for joining on 10.5.1989 up to the date she actually joined on 6.2.1990 pursuant to the directions made by the Tribunal.

2. The applicant was working as a Railway Clerk and started receiving treatment for Leprosy from 1.11.1981. She remained absent because of the prolonged treatment she was required to take and ultimately produced a fitness certificate dt. 6.5.1989 (Ex. 'A') in which it was stated that the applicant would be required to take continuous treatment and that her case was non-infectious and that she may be allowed to resume duty. The applicant thereafter made an application on 10.5.1989 (Ex. 'B') for permitting her to join after obtaining fitness certificate. It seems that the applicant also appeared before the Medical Officer as is clear from the endorsement dt. 14.6.1989

(Ex. 'E') to the application in which certain particulars were sought from her as to whether her name was on the muster roll, date from which she was absent and her residential address. The contention of the Respondents is that the application was sent by the applicant through a messenger and the applicant was asked to remain present for taking further steps, but she did not appear before the controlling officer and so no steps could be taken for permitting her to join her duties. The applicant ultimately filed the present application and pursuant to the interim order passed on 6.2.1990 was allowed to join duties w.e.f. 12.3.1990. Shri Walia learned counsel for the applicant has restricted the claim for the back wages in the course of his arguments only from ~~the~~ 14.6.1989 when the particulars were sought by (Ex. 'E') up to 6.2.1990, when the applicant was allowed to join. No reason has been given by the department, but on its own accord, ^{if} did not take steps for answering the written communication dt. 10.5.1989. We are clear that the applicant by approaching the D.M.O.B.A. and obtaining the letter dt. 14.6.1989 did everything that was possible for her to do in the circumstances. We are not therefore in a position to hold that the applicant was at fault and it was due to her inaction that she had not joined.

3. We therefore direct the respondents to pay to the applicant the wages from 14.6.1989 to 6.2.1990 because it was through the inaction on the part of the authorities that the applicant though willing to join could not join and discharge her duties. This order

(10)

- 3 -

shall be complied within two months from the date
of receipt of a copy of the order by the Respondents.

M.R.Kolhatkar

(M. R. KOLHATKAR)
MEMBER (A)

(M. S. DESHPANDE)
VICE-CHAIRMAN

B.