

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR

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O.A.137/91

S.Suresh Kumar,
11 B, Tapovan Complex,
Jaiprakashnagar, Khamla,
Nagpur.

.. Applicant

vs.

1. Divisional Railway Manager,
Central Railway,
Nagpur.

2. Divisional Accounts Officer,
Central Railway,
Nagpur Division,
Nagpur.

3. General Manager,
Central Railway,
Bombay V.T.

.. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava,
Vice-Chairman

Hon'ble Shri P.S.Chaudhuri,
Member(A)

Appearances:

1. Mr.S.V.Gole
Advocate for the
Applicant.

2. Ms.Indira Bodade,
Advocate for the
Respondents.

ORAL JUDGMENT:
Per U.C.Srivastava, Vice-Chairman

Date: 10-7-1991

As a very short question is involved
in this case after hearing the counsel for both the
sides we are admitting this application and disposing
it of finally.

2. The applicant is employed in the
office of the Director of Accounts(Postal), Nagpur.

He joined the present employment after ^{tendering his} resigning
~~resignation from his previous job on~~
his job from Central Railway on 30-9-1990. The appoint-
ment to the applicant in the Central Railway was given
only after execution of a bond by him for serving the
Railway for ^{five} ~~three~~ years. After the training he worked
as untrained clerk from 29.3.1989 to 22.5.1989 and was
posted at Hinganghat on 23.5.1989. He had also appeared

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for the Staff Selection Commission examination prior to joining the Railway as Commercial Clerk. On his being selected by the Staff Selection Commission the applicant tendered his resignation but did not, however, receive acceptance of his resignation for quite some time. Later on he was told to remit a sum of Rs.8,735/- in the Railway Cash office as the cost and charges of his training on the Railway. The above sum includes Rs.600/- as interest. The applicant therefore had to deposit the said amount under protest and thereafter he was finally released on 8.10.1990 from the Central Railway and then joined his present job. The applicant submitted a representation seeking a refund of the amount paid by him but it was rejected. Thereafter he approached the Tribunal.

3. The order which has been passed by the respondents regarding recovery of Rs.8,735/- has been challenged to be arbitrary and against the existing provisions of law. The contention which has been raised by the learned counsel for the applicant is not without force. O.M.No.70/10/60 dated 9.5.1960 and O.M.No.F5/10/50 Est(C) dated 15.4.66 which have been issued by the Home Ministry and have been quoted in Chapter 50 of Swamy's Manual of Estt. and Administration have been ignored. In accordance with para:5 of O.M.No.28021/1/84-Estt.(C) dated 14.11.1984 also quoted in Chapter 50 of this Manual the terms of the bond applicable to a Central Government employee who fails to serve for a stipulated period after completion of his training should not be enforced if he desires to secure, after proper permission, employment under the Central Government. The said rule also provides that a fresh bond should be ~~xxx~~ got executed from the employee by the new department to complete the balance period of earlier bond. Learned counsel for the applicant, after taking instruction from the applicant, states

that the applicant is prepared to execute the said bond. The applicant had applied and appeared for the Staff Selection Commission examination before he joined the Railway. He left his Railway employment only after he obtained the Railway's permission to do so. In these circumstances the recovery is obviously without any authority of law and accordingly this application deserves to be allowed.

4. Accordingly letter dated 1/22.2.1991 rejecting the claim of the applicant for refund is quashed and the respondents are directed to refund the amount of Rs.8,735/- to the applicant within a period of one month from the date of communication of this order and the applicant is also directed to execute forthwith a bond for the balance period of earlier bond. With this observation the application is disposed of. There will be no order as to costs.


(P.S. CHAUDHURI)
Member(A)


(U.C. SRIVASTAVA)
Vice-Chairman