

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR.

O.A.NO. 23/91
TR.A.NO. _____

199

DATE OF DECISION 19.4.94

Krishnaji Z. Muktare

Applicant(s)

Versus

G. M. Central Railway Bombay & 2 Ors. Respondent(s)

1. Whether it be referred to the Reporter or not ? ✓
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? ✓

MEMBER


VICE CHAIRMAN

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mbm

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CAMP : NAGPUR

O.A.23/91

Krishnaji Z. Muktare .. Applicant

-versus-

G.M. Central Railway
Bombay & 2 ors. .. Respondents

Coram: Hon'ble Shri Justice M.S.Deshpande
Vice-Chairman

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

Appearances:

1. Mr.N.Y.Phadnis
Counsel for the
Applicant.
2. Mrs.Indira Bodade
Counsel for the
Respondents.

ORAL JUDGMENT: Date: 19-4-94
(Per M.S.Deshpande, V.C.)

Two reliefs were prayed by this application. One is for quashing of the order making removing the applicant after departmental enquiry for unauthorised absence dt. 28-10-88 and backwages.

2. It is not disputed that the applicant who was working as Shunter with the respondent was mentally unwell from 19-10-85 to 9-7-88 and was absence from his duties. There is no dispute about the position that the applicant was receiving medical treatment from 1985 to 1988 for his mental infirmity. The applicant made representations from 21-11-88 for being reinstated in service. A departmental proceeding was initiated against the applicant for his unauthorised absence and he came to be removed on 28-10-88. This order is being challenged

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by the present application. On 23-4-91 an interim order was passed because an offer of alternative employment was made to the applicant and he accepted the employment as Clerk at Balharshah and joined duties at Balharshah on 13.8.91 in pursuance of the interim order.

3. It is apparent that the question of applicant's absence was the subject matter of the departmental enquiry. There is no dispute about the fact that the applicant was mentally ~~unfit~~ unsound from 1985 to 1988. No exception can, therefore, be taken to the applicant for not having been paid during this period because he did not do any work during this period. The applicant was offered alternate job as Caretaker when he was screened on 19-8-88 but he refused to go to Balharshah. His later representations say that he wanted posting only at Ajni or Nagpur because of his family difficulties. It was on account of applicant's unwillingness to join when the alternate employment was offered at Balharshah that he remained ~~un~~ without work and consequently he could not be paid.

4. Considering all this factors and
that the applicant by order dt. 23-4-91
have been granted suitable ~~alternative~~ alternate
appointment we do not think that the applicant
would be entitled to the relief of backwages.

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We, however, direct that the period of absence until the applicant secured alternate job in pursuance of the interim order dt. 23-4-91 should be regarded as continuous service though the applicant may not be paid for these period of absence.

5. With this direction the application is disposed of.

M.R.Kolhatkar

(M.R.KOLHATKAR)
Member(A)

W.W.L
(M.S.DESHPANDE)
Vice-Chairman

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