

(6)

Central Administrative Tribunal, Mumbai Bench

O.A. 1097 of 1992

Mumbai this the 5th day of September, 2001

Hon'ble Mr. B.N. Bahadur, Member (A)
Hon'ble Mr. Kuldip Singh, Member (J)

Shri Shataram
Residing at Shivaji Nagar, Kalyan
Near Budha Vihar, Ambarnath Road, Kalyan East,
District Thane, working as Electrical
Fitter, H.S.K.-II Shop Superintendent,
(T/L) Mazgaon, Bombay-10.Applicant

By Advocate: None.

Versus

1. Divisional Railway Manager,
C.Rly. Bombay-VT Bombay.
2. Sr. Divisional Electrical Engineer,
Central Railway, Bombay-VT.,
Bombay.
3. Shri S.K. Tiwari,
Asstt. Electrical Engineer(T/L),
2nd Floor, Annexe Building,
Central Railway, Bombay-VT.
4. Shri S.P. Mahurkar,
Shop Superintendent (T/L),
Central Railway, Mazgaon,
Bombay-400 010.Respondents

By Advocate: Shri S.C. Dhawan.

ORDER (ORAL)

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

This case was called out twice in the morning session when there was no one present for the applicant. We have waited till the after-noon. We find that the Applicant has ~~left~~ ^{abs} an application that he had come here but as his advocate is not



here, the case may be adjourned. This is a very old matter and we find no reason to adjourn it. Therefore, the case is decided on merits and pleadings. Shri Dhawan, Learned Counsel is heard for the Respondents.

2. The relief sought in this case is as follows:-

The applicant is allowed to resume his legal duties in the office of respondents and respondents be directed to allow the applicant to resume his legal duties and arrears of the back wages be paid to the applicant.

3. The facts of the case are, as the applicant states, that he was to resume office on 5.10.1990 after leave, but was restrained from attending to his duties and marked absent unauthorisedly. He sent a letter to this effect on 5.11.1990 making a representation to seniors. He has been making representations since August, 1991 continuously, but no reply has been received. Details of the above gist of facts are given in para 4 of the OA.

4. It is further stated in para 4 of OA that on 4.11.1991 the applicant received a letter from Respondents' office where he was asked to furnish a Medical Certificate regarding his illness. The letter has been replied to by the Applicant.



.3.

Applicant contends that he was never sick and that the demand for medical certificate was made on unfounded grounds.

5. The applicant contends that he was illegally and unauthorisedly restrained in this manner from resuming his legal duties by respondent No.4. It is with this grievance that the applicant has come up seeking the reliefs, as described in para 2 above.

6. The respondents have filed a written reply, resisting the claims of the applicant and have stated that no application for leave was made from 27.9.90 to 4.10.90, hence he was marked absent till 4.10.1990 when an application was received for leave for 4 days. The applicant reported for duty on 5.10.1990 and was asked to produce a Medical Certificate for the aforesaid period from 27.9.90 to 4.10.90. He did not join duty. The respondents by their letter dated 22.2.1991 called upon the applicant to resume duty or produce medical certificate. He has not resumed duty or send Medical Certificate for the leave period, as described in para 7 of the written statement of the respondents in detail.

7. It is further stated in para 8 that respondents have issued a charge-sheet to the Applicant under Rule 9 of Railway

bns

Servants (Discipline & Appeal) Rules, 1968.

8. Learned counsel, Shri Dhawan states before us today, on checking his records, that subsequently on 11.9.1997 applicant produced a Medical Certificate and he was given orders to join duties on 11.9.97. He also states that applicant has since joined duties and is working on his post. It is also stated by Learned Counsel on behalf of Respondents that the charge-sheet issued in standard form has been dropped. We note this position.

9. Since the applicant has joined duties the matter in regard to this relief sought no longer sustains.

10. The question that now remains is as to how the period of the date of absence is to be treated. This is, however, not part of the relief sought and, therefore, we are not adjudicating in this regard in the present OA. The Respondents should take an early decision on this issue and communicate it to Applicant through a concise explanatory communication. Applicant will be at liberty to state his case through ~~or through~~ representation within 2 weeks, if he so desires.

11. Subject to the above (para 9), this OA stands disposed of with no order as to costs.

Kuldeep
(Kuldeep Singh)
Member (J)

B.N. Bahadur

(B.N. Bahadur)
Member (A)

Rakesh