

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
(CAMP: NAGPUR)

Original Application No: 1228/93 & 1289/93

Transfer Application No:

DATE OF DECISION: 27/4/95

Shri C.M. Raghatare
Shri S.S. Moon

Petitioner

Shri F. Isaac

Advocate for the Petitioners

Versus

Assistant Controller of States
Railway Electrification, AJNI Respondent
Nagpur and anr.

Shri P.S. Lambat

Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Shri P.P. Srivastava.

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

(M.S. Deshpande)
Vice Chairman

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BCMBAY BENCH CAMP AT NAGPUR.

(4)

ORIGINAL APPLICATION NO.1228/92

Chandrakant Mahadeo Raghatare, ... Applicant.

&

ORIGINAL APPLICATION NO:1289/93

Suni Samnath Moon ... Applicant.

v/s.

1. Assistant Controller of Stores,

Railway Electrification AJNI,
Nagpur.

2. Deputy Controller of Stores,

Railway Electrification, AJNI,
Nagpur.

... Respondents.

CORAM: Hon'ble Shri Justice M.S.Deshpande, Vice Chairman.

Hon'ble Shri P.P.Srivastava, Member(A).

APPEARANCES:

Shri F.Issac, Counsel
for Applicants.

Shri P.S.Lambat, Counsel
for Respondents.

ORAL JUDGEMENT:

DATED : 27/4/95.

¶ Per Shri M.S.Deshpande, Vice Chairman. ¶

The applicant was appointed as Khalasi in 1986 and was suspended on 3/7/92. The Charge Sheet dt. 12/9/92 was given to him for absence from duty on 7/7/92 at 9.30 p.m. while he was working as watchman. The Applicant on 17/11/92 gave his explanation. Suspension was revoked by the order dt. 12/9/92 w.e.f. 15/9/92.

2. The respondents contention that the documents relating to charge sheet were not collected by the Applicant and it was held that the charges framed on him was established as he failed to give any explanation within the permissible period. The Applicant's pay was reduced to the next reversion scale of Rs.774/- to Rs.762/- for a period of one year only. There was no appeal against this order. There was no dispute on the fact that there is no order

terminating the applicant. Obviously, the applicant had been remaining absent since he was placed on suspension by the order dt. 3/7/92 but and the termination of his service was not passed ~~or~~ by the respondents.

In the circumstances, we find that the applicant is entitled to ask for reinstatement. The question is only ^{as to} how the period of absence should be ^{reduced} reinstated. The absence was without leave and all that is urged on behalf of the applicant is that he should be taken on job and there should be continuity of his employment and his previous service should be counted.

In the circumstances, we pass the following order:-

The respondents shall permit the applicant to join his duties if he reports within one week from today. The applicant will not be entitled to any pay and allowances for the period of his absence from 3/7/92 pursuant to this order but his previous service upto ^{July} 92 shall be counted for continuity of service ~~ignoring the break~~. The break from 3/7/92 until the date of joining shall not be counted for continuous service.

With this direction, the CA is disposed of.

ORIGINAL APPLICATION NO:1289/93.

The facts in OA-1289/93 are identical to OA 1228/93 and we direct that the applicant should join his duties within one week and the order passed for OA-1228/93 will govern the applicant in OA-1289/93 also.

(P.P. DUVASTAVA)
MEMBER(A)

(M.S. DESHPANDE)
VICE CHAIRMAN

abp.

(6)

Reed
G.P.M/95
C.M. Daddhoo
C.M. Law Hoss.
C.M. Reshawber.
for
25/10/1995 27/10/1995

26-8-e4
Panchayat of Pindari.

Order / Judgement despatched
to Applicant/Respondent (s)
28/10/95

AC
28/10/95

M.P. No. (N) 130/95 for
stay on transfer filed
in OA 1228/93 (Combined)
Fixed for order on 9/11/95
8/11/95

Review Petition No. (N) 12/95
put up for orders by
circumlocution.

AC
23/11/95

(7)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

R.P.NO.(N) 12/95

in

OA.NO. 1289/93

Shri Somnath Moon
V/S.

... Applicant

Dy. Controller of Stores,
Railway Electrification,
Ajni, Nagpur & Anr. ... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande
Hon'ble Member (A) Shri P.P.Srivastava

Tribunal's Order by Circulation
(PER: P.P.Srivastava, Member (A))

Dated: 28/8/95

Through this Review application the applicant has sought review of order passed in OA.NO. 1228/92 dated 27.4.1995. In the OA. 1228/92 the applicant has sought the relief of re-instatement w.e.f. 15.9.1992 with back wages and continuity of service and order dated 5.5.1993 imposing the punishment on the applicant. After hearing the arguments of both the sides the following order was passed :-

"The respondents shall permit the applicant to join his duties if he reports within one week from today. The applicant will not be entitled to any pay and allowances for the period of his absence from 3.7.1992 pursuant to this order but his previous service upto July, 1992 shall be counted for continuity of service. The break from 3.7.92 until the date of joining shall not be counted for continuous service.

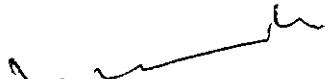
With this direction, the OA. is disposed of."

In the review petition the applicant has sought the same relief which he had asked for in the original application. The applicant has more or less repeated the arguments which he had already advanced in the original application in his pleadings and at the time

of hearing. Nowhere the applicant has pointed out any error apparent on the face of record in the order passed by this Tribunal. The applicant has also not brought out any material in the review petition which could not have been brought out ^{with due diligence & other} at the time of filing OA, which would warrant any review of the order which has already been passed in this review petition.

2. We are, therefore, of the view that there is no material for us to interfere with the judgement which we have already delivered in the present case. The review application is, therefore, dismissed in-camera.


(P.P. SRIVASTAVA)
MEMBER (A)


(M.S. DESHPANDE)
VICE CHAIRMAN

mrj.