

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

J A I P U R.

T.A. No. 1950/86

Date of decision: 10.3.93

MADAN LAL

: Plaintiff/Applicant.

VERSUS

UNION OF INDIA

: Respondents.

Mr. Anil Mehta

: Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman

Hon'ble Mr. B.N. Dholiwal, Administrative Member

PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE-CHAIRMAN:

Plaintiff/Applicant filed a civil suit in the court of learned Munsif, Bandikui and prayed therein that the order of dismissal dated 1.12.82 passed against him should be quashed. He has also prayed that the order dated 27.11.82 be declared as illegal and void. He has also produced the copy of the order dated 27.11.82 by which he was informed that the penalty of dismissal from service has been awarded to him.

2. On 20.4.92, the court recorded that in spite of giving 21 opportunities, respondents have failed to file the reply. On 14.7.92, none was present on behalf of the respondents. However, in the interest of justice, last opportunity was granted to file the reply. On 27.8.92, Mr. Anil Mehta was present on behalf of the respondents. Further opportunity was granted to him on the condition that the respondents will have to pay the cost of Rs. 1000/-. Several opportunities have been given, however, the respondents have failed to file the reply.

3. Crisis in the administration of justice is there because of the negligence on the part of the administration and the litigation department of the Union of India. The negligent act of the administration is leading towards the sufferance of the tax-payers and the State-exchequer is also suffering and no one is held responsible. It is a case of gross negligence of the railway administration and because of

the negligent act of the railway administration, the railway will suffer, the passengers will suffer and the State-exchequer will suffer. Crisis has led to this extent that even after giving 21 opportunities, further opportunities were given twice. On 27.8.92, Mr. Anil Mehta appeared. Again an opportunity was given. Mr. Anil Mehta submits that originally the case was in the Jodhpur Bench and the reply could not be filed there and the file has not been handed over to him so far by the learned counsel attending at Jodhpur. He has intimated the authorities also about the order dated 27.8.92. But none has cared to file the reply on behalf of the railway. In such circumstances, it is also necessary for us to pass some orders against the railway authorities.

4. The plaintiff submitted in the plaint that the Assistant Engineer was not the appointing authority and, as such, the order of dismissal passed by him is without jurisdiction. He has also submitted that the orders have been passed without giving him an opportunity of hearing and against the principles of natural justice. He has also submitted that he has not been allowed to lead evidence in defence. He has also submitted that evidences have not been recorded in his presence. We will have to take the submissions made in the plaint on its face value as there is none to rebut the allegations made in the plaint. If the allegations made in the plaint are accepted and which we will have to accept on account of negligent act of the respondents, we will have to accept the T.A. and set aside the order of dismissal dated 1.12.82 and 27.11.82. We will have to pass the decree in favour of the plaintiff for the payment of the salary and all consequential benefits.

5. We direct that the T.A. be accepted, the order dated 1.12.82 and the order dated 27.11.82 be quashed. We pass the decree in favour of the applicant for the payment of Rs.2000/- prayed in the plaint and he will also be entitled for the salary from 1.4.83 upto the date of his re-instatement. However,

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he will have to move to the Labour Court under the provisions of S.33/C Clause (2) of I.D. Act for getting the award after giving an undertaking that he was not in employment or gainful employment with no one else during this period.

6. We further direct the General Manager, Western Railway to take disciplinary action against the officers who are negligent in the discharge of the duties and who have failed to attend the court and to file the reply in spite of so many adjournments given by the Tribunal.

7. We will like to observe that the respondents should see that there is a proper and effective representation of their cases by the Presenting Officer.

8. T.A. is accepted and accordingly disposed of, with no orders as to costs.

B.N. Dholiyal
(B.N. DHOUNDIYAL)

Administrative Member

D.L. Mehta
(D.L. MEHTA)
Vice-Chairman