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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

J A I P U R .

O.A.No. 565/92

Date of Decision: 14.12.92

JOHARI LAL : Applicant.
Mr. S.C. Sethi : Counsel for the applicant.

VERSUS

UNION OF INDIA & ORS : Respondents.
Mr. Manish Bhandari : Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman
Hon'ble Mr. B.B. Mahajan, Administrative Member

PER HON'BLE MR. B.B. MAHAJAN, ADMINISTRATIVE MEMBER:

Johari Lal Sharma has filed this application for direction regarding payment of his salary from 9.2.92. The applicant has stated that he was working as Fitter Gr. II in the Loco Shed Gangapur City, Western Railway, Kota Division. The Loco Shed Gangapur City was closed down w.e.f. 1.5.91. The staff was declared surplus and absorbed in other departments of Railways on alternative posts in the same scales of pay. The applicant was also declared surplus. He gave option for being absorbed under I.O.W., Gangapur City. He was accordingly transferred to the post of Pipe Fitter Gr. II under IOW, Gangapur City vide order dated 18.9.91. He reported to that office on 25.9.91. After 4½ months, IOW, Gangapur City vide letter dated 8.2.92 (Annexure A-1) addressed to Loco Foreman, Gangapur City stated that the Senior Divisional Engineer, Kota had not accepted this transfer of the applicant and the applicant had accordingly been relieved on 8.2.92 for reporting to the parent Loco Engineering Department. The applicant hereafter approached the Loco Foreman, Gangapur City on 10.2.92 but the Loco Foreman showed his inability to accept him because the Loco Shed was already closed down and the staff declared surplus was absorbed in other departments of the Railways. Loco Foreman, Gangapur City, on 10.2.92, wrote to the IOW, Gangapur City informing him about this position and stated that the applicant was accordingly being returned to that office for reporting for duty as he cannot be accepted because of the closure of the Loco Shed. The applicant thereupon submitted representations dated 12.2.92 (Annexure A-3), dated 17.3.92 (Annexure A-4) and dated 23.4.92 (Annexure A-5) addressed to the Senior Divisional Engineer, Kota Division, Kota and DME, Kota Division, Kota. He has, however, stated that he was not given any reply and also not given any posting order and has been kept out of duty. The respondents have not



Amended
S.C. Sethi

filed any reply although they had been given opportunities to do so. The OA was admitted on 19.11.92 and it was also directed at that time that it would be put up for final disposal at the stage of direction on 14.12.92 as the applicant is retiring in the month of January, 1993 and the respondents were also directed to file the reply before that date. The respondents were also directed to take the applicant back on duty at Gangapur City and he should be paid also the arrears of the salary within a period of three months. The learned counsel for the applicant has stated that the applicant has not been taken back on duty despite these orders. Departmental Representative has stated that the transfer order was passed on 1.4.92 posting the applicant under Loco Shed, Kota. The orders were issued to the Loco Foreman, Gangapur City and Kota. Copy of the transfer order was not sent to the applicant. There is no evidence that the Loco Foreman, Gangapur City had served the copy of the transfer order on the applicant. In the circumstances, the applicant has been prevented from performing his duties from 10.2.92. The respondents are, therefore, directed to pay the salary to the applicant for the period from 10.2.92 till today within one month of this order. Mr. Manish Bhandari submits that a fresh order will have to be issued, looking to the present circumstances. The petitioner is directed to be present in the Court on Friday (18.12.92) to collect the fresh order, if any issued and Mr. Bhandari will supply the fresh order, if issued, to the applicant before the Tribunal. In case, fresh order is not issued upto Friday, then the respondents will send the fresh order at the residential address of the applicant, viz. Nasiya Colony, near Nasiya Temple, Gangapur City, Distt. Sawai Madhopur (Raj.).

The ~~order~~ stands disposed of accordingly.

(B.3. MAHAJAN)
Administrative Member

(D.L. MEHTA)
Vice-Chairman

Manish Bhandari
Section Officer (Judicial)
Central Administrative Tribunal
Jaipur Bench, JAIPUR

*Attested
S.C. Sothi*