

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

\*\*\*

Date of Decision: 11.1.2001

OA 289/94

Soloman Smith, WMT, Jaipur Division, Jaipur.

... Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Fly Manager, Western Railway, Jaipur.
3. Sr.Divisional Mechanical Engineer, Western Railway, Jaipur

... Respondents

CORAM:

HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant ... Mr.J.K.Kaushik

For the Respondents ... Mr.Manish Bhandari

O R D E R

PER HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

In this application u/s 19 of the Administrative Tribunals Act, 1985, applicant Soloman Smith has prayed for a direction to the respondents to pay the salary to the applicant for the period from 24.4.92 onwards alongwith reasonable rate of interest, with all consequential benefits.

2. Applicant's case is that he was initially appointed on the post of Painter and was promoted on the post of Weighing Machine Tester Grade-I on 6.7.84. On 24.4.92 the applicant was ordered to be transferred and posted to the post of Millwright Fitter Grade-I at Bandikui on the ground that the post of Weighing Machine Tester Grade-I was abolished. This Transfer was challenged by the applicant first in OA 192/92 and subsequently in OA 205/93. OA 205/93 was disposed of by this Tribunal vide order dated 5.1.94 with the following observations:-

"We, therefore, direct that the respondents may provide an opportunity to the applicant to undergo necessary training to enable the applicant to discharge the duties of

*Gopal Singh*

the post of Mill Wright Fitter Grade-I. Necessary action to provide training may be initiated within a period of one month from the date of receipt of this order."

Contention of the applicant in OA 205/93 was that he was being posted to a post for which he had no training and accordingly the respondents were directed to extend necessary technical training to the applicant for manning that post. It is the contention of the applicant that he had approached the department with the order dated 5.1.94, passed in OA 205/93, and the respondents in term directed the applicant to report to Mill Wright Chargeman, Loco Shed, Jaipur, for necessary training vide letter dated 10.2.94 (Ann.A/2). The applicant contends that this letter was not endorsed to the Mill Wright Chargeman, Loco Shed, Jaipur, and therefore he was not taken on duty for training by the Mill Wright Chargeman, Loco Shed, Jaipur, when the applicant reported for duty to him. The applicant alleges that since then he ~~has~~ written various letters to the authorities to arrange for his training and pay the wages. Seeing no response from the respondents, the applicant filed this OA on 1.7.94. Applicant, in this OA, had prayed for a interim direction to the respondents to arrange for training to the applicant on the post of Mill Wright Fitter Grade-I. Accordingly, the respondents were directed to start imparting training to the applicant on the said post from the date he reports for said training. The Tribunal also directed the applicant to report for training to the Loco Foreman, jaipur, within three days. Thereafter, the applicant had joined the respondent department for training. The applicant has thus remained away from the job from 24.4.92 till May, 1995 and has prayed for salary for the said period.

3. In the counter it has been stated by the respondents that the applicant never intended to join at Bandikui Office even after the direction of this Tribunal dated 5.1.94 in OA 205/93. The applicant was directed vide Ann.A/2 to report to Mill Wright Chargeman, Loco Shed, Jaipur, for training. However, he did not report for training. It is also wrong on the part of the applicant to contend that the letter dated 10.2.92, at Ann.A/2, was never endorsed to Mill Wright Chargeman, Loco Shed, Jaipur, and therefore the applicant was not taken on duty there. The respondents have also

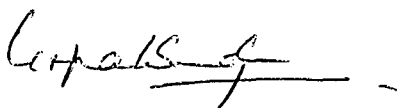
*Copabs-g*


denied receipt of various letters alleged to have been written by the applicant. It has, therefore, been contended by the respondents that the applicant had remained absent unauthorisedly for the period in question and, therefore, he is not entitled to any pay and allowances for the said period.

4. We have heard the learned counsel for the parties and perused the records of the case carefully.

5. It is seen from records that it was the endeavour of the applicant to avoid posting to Bandikui. On his first transfer order he considered it appropriate to approach the Tribunal instead of complying with the transfer order. Subsequently, when the Tribunal directed imparting training to the applicant, he did not report to the authority which was directed to impart technical training to the applicant and within a short period of order of the Tribunal he again approached the Tribunal for some relief. The applicant has not produced any document wherein he was refused to join the posting given to him. We are convinced that the applicant had remained absent from duty from 24.4.92 till he was directed to report for duty vide our interim order dated 23.5.95. In the circumstances of this case, we are of the view that the applicant is not entitled to any pay and allowances for the intervening period on the principle of no work no pay. The OA is, therefore, devoid of any merit and deserves to be dismissed.

6. The OA is accordingly dismissed with no order as to costs.

  
(GOPAL SINGH)  
MEMBER (A)

  
(S.K. AGARWAL)  
MEMBER (J)