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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH
J A I P U R.

O.A.No.338/1994

Date of order: 9.10.1996

Badri

: Applicant

vs.

Union of India & Others

: Respondents

Mr. Shiv Kumar, counsel for the applicant
Mr. M. Rafiq, counsel for the respondents

CORAM:

HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE)
HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL)

O R D E R

(PER HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE))

In this application under Section 19 of the Administrative Tribunals Act, 1985 Shri Badri has prayed that the respondents may be directed to take the applicant on duty under PWI(N)Kota on the vacant post of Gangman forthwith with all consequential benefits including salary for the period from the date of issue of the relieving order till the date he is allowed to resume duty under PWI(N)Kota.

2. The facts of the case, as stated by the applicant, are that he was initially appointed as Gangman on 5.11.1981 at Morel and was thereafter transferred to different places. When he was posted at Bhawani Mandi he made an application dated 28.3.1994 to respondent No.4, Assistant Engineer (North) Kota, Western Railway, Kota for transfer to Kota on account of personal



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reasons. Respondent No.5 Chief Permanent Way Inspector (North) Kota stated that he had no objection to the transfer. The applicant was relieved from Bhawani Mandi to join duty under PWI(N) Kota vide relieving order dated 21.4.1994 (Annexure A-2). In the said order Annexure A-2 it has been stated that it has been issued with the sanction of the competent authority. He reported for duty at Kota on the same day on which the relieving order was issued. Respondent No.5 asked the applicant to wait for further orders. Thereafter the applicant kept running from pillar to post but was not taken on duty. He approached respondent No.3, Senior Divisional Engineer, Western Railway, Kota Division, Kota who made a note on the relieving order that the employee should be taken back on duty by P.W.I. Bhawanimandi. There is a clear vacancy of Gangman under CPWI(N) KOTA, the Permanent Way Inspector Bhawani Mandi has no objection to the applicant's transfer to Kota and yet the applicant has not been taken on duty. He has also not been paid any salary from the date of his relieving till the date of filing of the application i.e. 29.7.1994. He has, therefore, prayed that he may be taken on duty under PWI(N) Kota forthwith with all consequential benefits.

3. The respondents in their reply have stated that the PWI Bhawani Mandi relieved the applicant on 21.4.1994 without there being any order of transfer of the applicant from Bhawani Mandi to Kota and without the approval of the competent authority. Therefore, when the applicant reported to P.W.I.(N) Kota on 16.6.1994, he did not allow him to join

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duties. When the applicant met the Senior Divisional Engineer (Headquarters), Office of the D.R.M.Kota on 22.4.1994, he had ordered that the applicant shall continue to work under PWI, Bhawani Mandi. They have further stated that the applicant had been asked on 22.7.1994 to report back to PWI Bhawani Mandi and thereafter on 18.8.1994 a communication was sent to his residence to do so (Annexure R-2). Subsequently however the applicant has joined duty at Bhawani Mandi under the orders of the Tribunal. The respondents have prayed that since the application has become infructuous, it should be dismissed.

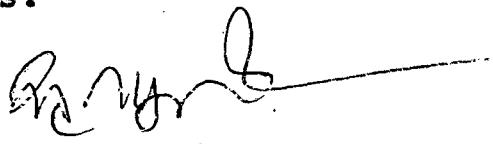
4. We have heard the learned counsel for the parties and have gone through the material on record. By order dated 17.8.1994 the Tribunal had directed the respondents to give an intimation to the applicant regarding the place where he should report for duty. The respondents' case is that it is in pursuance of the intimation given in response to the said order of the Tribunal that the applicant has joined duty at Bhawani Mandi. The learned counsel for the applicant however pleads ignorance about whether the applicant has joined duty at Bhawani Mandi. If the applicant has already joined duty at Bhawani Mandi, as stated by the respondents, sometime in July, 1994 or thereafter, the prayer regarding taking him back on duty has become infructuous. However, in case the applicant has still not been taken on duty, he may report to P.W.I. Bhawanimandi within two weeks from today who shall take him on duty. As regards the

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prayer of the applicant regarding consequential benefits such as salary for the period from the date of issue of the relieving order till his resumption on duty again, he may make a representation to the appropriate authority who shall decide the same on merits.

5. The O.A. stands disposed of with no order as to costs.


(RATAN PRAKASH)

MEMBER (J)


(O.P. SHARMA)

MEMBER (A)