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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH, JAIPUR

Date of order: 25-9-96

OA No. 10/96

Kapoor Chand Saini .. Applicant

Versus

Union of India and Others .. Respondents

Mr. Shiv Kumar, counsel for the applicant

Mr. Manish Bhandari, counsel for the respondents

CORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman

Hon'ble Mr. O.P.Sharma, Administrative Member

ORDER

Per Hon'ble Mr. O.P.Sharma, Administrative Member

In this application under Section 19 of the Administrative Tribunals Act, 1985, Shri Kapoor Chand Saini has prayed that the respondents may be directed to take the applicant on duty (in particular at Jaipur) and pay the monthly salary and back wages to him. He has further prayed that the benefits of the judgment dated 30-7-94 delivered by this Bench of the Tribunal in OA No. 539/92 (old No. 126/90), Kapoor Chand Saini Vs. Union of India and Ors., may be extended to the applicant by way of execution and consequential benefits may also be allowed to him.

2. The case of the applicant is that he joined service in Railway in 1978 and continued to serve till November, 1986. From 28-11-86 when he was posted at Bandikui, he was not taken on duty. He filed an OA, No. 539/92 (old No. 126/90) before the Tribunal and the Tribunal vide order Annexure-A2 dated 30-7-94 directed that the applicant should be reinstated with all consequential benefits. Some directions regarding payment of back wages were also given. The said

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judgment was not implemented by the respondents. The applicant then filed a Contempt Petition, No.127/94. During the pendency of the said Contempt Petition, the respondents have passed several orders to show that the order of the Tribunal had been complied with. The respondents have taken a plea that they do not have a vacancy in Mechanical Department and as soon as a vacancy is available, the applicant will be taken on duty (copies of relevant orders are at Ann-A1 dated 31-8-95 and Ann-A4 dated 12-9-95). The applicant gave his joining report in pursuance of the aforesaid order but he was not taken on duty. On 10-10-95, the Tribunal passed a detailed order (Ann-A6) directing the respondents to take the applicant back on duty and pay him back wages. The respondents have filed a document Ann-A7 dated 13-9-95 to show compliance of the directions of the Tribunal regarding the applicant being taken back on duty but this is a fabricated document. The applicant has still not been taken on duty. The Contempt Petition was disposed of by the Tribunal by order dated 20-10-95 (Ann-A3). The applicant has described the said order of the Tribunal as controversial. Vacancies are available in the Mechanical Department at Jaipur and other nearby places and yet the applicant has not been taken on duty either at Jaipur or at other nearby places in the Mechanical Department. He has, therefore, prayed that 50% of the back wages as earlier directed by the Tribunal to be paid to him and he should be taken back on duty.

3. The respondents have not filed any reply.

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4. We have heard the learned counsel for the parties and have perused the material on record. The learned counsel for the respondents stated that it was the applicant himself who abandoned his post after joining duty in pursuance of the offer made to him after the Tribunal had passed the order to the effect that the applicant should be taken back on duty. This fact has come out in the order passed on 20-10-95 in the Contempt Petition No. 127/94. It was on this ground that the earlier Contempt Petition filed by the applicant was treated as disposed of. The learned counsel for the applicant has stated that infact it was the respondents who <sup>have</sup> ~~has~~ refused to take the applicant back on duty and that is why he has been running from pillar to post.


5. The question whether the applicant abandoned the post after joining duty in pursuance of the earlier order of the Tribunal or whether the respondents refused to take him on duty is a disputed point of fact and we are not in a position to give any decision on this point. Anyhow the learned counsel for the respondents stated that the respondents are still ready to take the applicant back on duty. In the circumstances, we direct that the applicant shall report for duty to the Sr. Divisional Engineer (Hq), Jaipur within one week from today. The Sr. Divisional Engineer (Hq), Jaipur will then issue an appropriate order directing the applicant to report for duty to the authority under whom he will have to work at the place of posting either at Jaipur or at any place outside. The Sr. Divisional Engineer (Hq) shall mention the designation/post to which the applicant is posted and the


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scale of pay in which he is placed. In the circumstances of the present case and in view of the dispute about the question whether the applicant earlier joined duty and it was the respondents who did not allow him to work, we do not pass any order regarding payment of back wages.

6. The OA stands disposed of accordingly with no order as to costs.

  
(O.P. Sharma)  
Administrative Member

  
(Gopal Krishna)  
Vice Chairman