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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

OA No.132/1997

Date of order: 10.12.1997

Mahesh S/o Madho aged about 36 years R/o Village and Post Nimoda, Distt. Sawai Madhopur at present employed on the post of Gangman, Hindaun under PWI, Kota Division, Kota.

.. Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Assistant Engineer Gangapur, Western Railway, Kota Division.
3. Chief Permanent Way Inspector, Baran, Western Railway, Kota Division, Kota.
4. Chief Permanent Inspector, Hindaun, Kota Division, Kota.

.. Respondents

Mr. Shiv Kumar, counsel for the applicant

Mr. T.P.Sharma, counsel for the respondents

CORAM:

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

Hon'ble Mr. Ratan Prakash, Judicial Member

ORDER

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

In this application under Section 19 of the Administrative Tribunals Act, 1985 Shri Mahesh has prayed that the respondents may be directed to take the applicant on duty at Hindaun City and they may be directed to pay monthly pay and allowances to the applicant for the intervening period till he is taken on duty.

2. The facts of the case as stated by the applicant are that while functioning on the post of Gangman at Hindaun City, he was transferred to Baran in Kota Division vide

RJ.

Ann.A1 dated 8.8.1996. He was issued a pass for joining duty at Baran. However, he had neither been taken on duty at Hindaun City nor at Baran. He has been facing financial hardships for no fault of his. He met the divisional authorities but to no avail. Accordingly, the applicant has prayed that the respondents may be directed to take him on duty at Hindaun City and also give him pay and allowances for the period he remained out of duty for no fault of his.

3. The respondents in their reply have taken a preliminary objection to the OA stating that the applicant did not avail himself of the alternative remedy of filing a representation to the higher authorities against the order which has been challenged in this OA. With regard to the merits of the case, the respondents have stated that the applicant was habitual <sup>in</sup> ~~at~~ absenting himself from the duty and leaving office without information. They have given details of number of days during which he remained absent in this manner during 1987 to 1996. After the applicant was relieved from duty from Hindaun City in consequence of the order of transfer, he himself did not join duty at Baran and came back to report to the PWI, Hindaun City. It is the applicant who has disobeyed the order of transfer and it is not that the respondents are not taking him on duty. Actually the order by which he has been posted at Baran is not a transfer order but it is an order whereby the applicant and other similarly situated persons have been confirmed on the post of Gangman in scale Rs. 775-1025.

4. Vide order dated 26.5.1997, the Tribunal had directed respondents Nos. 2 and 4 to allow the applicant to join duty in the office of Permanent Way Inspector, Hindaun City. It was further observed by the Tribunal in this order that the question of pay and allowances for the intervening

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period would be considered subsequently after the respondents have put in their appearance and have filed reply. The learned counsel for the respondents stated during his oral arguments that the respondents have since taken the applicant on duty on 31.5.1997. He has produced before us a copy of the order issued to the applicant in this regard, which has been taken on record by us. The learned counsel for the respondents stated that since the applicant has now been taken on duty, no further action is required. He is not entitled to any pay and allowances for the intervening period because it was the applicant who did not come forward to join duty at Paran and instead chose to absent himself from duty.

5. Now that the applicant has been taken on duty at Hidaun City itself, though after directions of the Tribunal, the grievance of the applicant has been substantially redressed. With regard to his pay and allowances for the intervening period, the learned counsel for the applicant states that he would be filing a representation to the respondents.

6. In the circumstances of the present case, we direct that if the applicant makes a representation in this regard within a period of one month, the respondents shall dispose it of on merits within a further period of two months. The OA stands disposed of accordingly at the stage of admission. No order as to costs.

  
(Ratan Prakash)

Judicial Member

  
(O.P. Sharma)

Administrative Member