

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR
BENCH, JABALPUR

Original Application No. 1012 of 2005

Jabalpur, this the 10th day of January, 2006

Hon'ble Shri M.K. Gupta, Judicial Member

J.K. Sisodiya, aged about 40 years,
S/o. Ram Kumar Sisodiya, Junior Engineer-II
(Works), West Central Railway, Pipariya,
Distt-Hosangabad, M.P.

.... Applicant

(By Advocate – Shri S. Nagu)

V e r s u s

1. Union of India, through it's Secretary,
Ministry of Railways, Rail Bhawan,
New Delhi.
2. Divisional Railway Manager,
West Central Railway, Jabalpur
Division, Jabalpur, Distt-Jabalpur, (MP).
3. Senior Divisional Engineer (Coordination),
West Central Railway, O/o. DRM West
Central Railways, Jabalpur.
4. Assistant Divisional Engineer (Maintenance),
West Central Railway, Narsinghpur,
Distt-Narsinghpur, (MP). Respondents

(By Advocate – Shri H.B. Shrivastava)

O R D E R (Oral)

The applicant seeks directions to respondents to issue necessary orders particularly to respondent No. 3 and 4 to enable him to discharge his duties as Junior Engineer (II) (Works) either at Bilaspur, Maihar or Beohari, with other consequential benefits.

2. The facts as stated in the OA are that vide order dated 14.1.2002, the applicant was transferred and posted at Pipariya under IOW PPI.

Subsequently vide order dated 7.10.2004 he was transferred to Maihar. When such were the facts, it is stated, that the respondents issued another order dated 31.12.2004 by which the earlier transfer dated 7.10.2004 was modified to the extend of transferring him to Beohari, District Shahdol, instead of Piparia. It is the contention of Shri S. Nagu learned counsel for the applicant that despite representation made, neither the relieving orders had been passed nor any specific representation was considered by the respondents.

3. On the other hand, the respondents contested the applicant's claim and submitted that pursuant to order dated 31.12.2004 the applicant though initially remained absent from duty, but joined Beahori on 22nd January, 2005 and performed his duty till 24.1.2005 when he was directed to attend some official work at Jabalpur. Thereafter, the applicant remained un-authorisedly absent from duty from 25.1.2005 as he had neither reported back nor he is attending the duties of the post in question. Hence, a major penalty proceedings were initiated on 19th July, 2005. According to the respondents the major penalty charge sheets were issued and dispatched to him on the last known address. In these circumstances, it is contended that the applicant is not entitled to any relief.

4. The applicant in rejoinder, contested the aforesaid averments made in the reply and stated that the applicant had not reported for duty on 22.1.2005 at Behori and in fact had never performed duties at the said station. It is clarified by the applicant in para 3 of the said rejoinder that infact he had visited the office of Assistant Divisional Engineer, Beohari on 23.1.2005, which was a Sunday and enquired about his transfer but neither joined his duties nor signed any papers on the said station and returned back on the same day. He has further denied the communication of major penalty charge sheet at 19.7.2005 and stated that he has not been received any such charge sheet till date. In any case

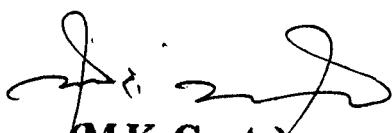
he has not been served upon the said communication, contended the learned counsel for the applicant.

5. I have heard learned counsel for the parties and perused the pleadings carefully.

6. Since the applicant has raised disputed question of facts and at present is willing to perform his duties at any station where the respondents have agreed to post him, in the interest of justice, I would like not like to go into the merits of this case at this stage as the same can be adjudicated upon later after the applicant joins the post in question, at Beahori, subject to the condition, as contended by the learned counsel for the respondents, that he should submit medical report of his fitness as the said post is a safety post.

7. Merely because the applicant has been charge sheeted, which fact has been denied by the learned counsel for the applicant, that in itself would not debar or preclude him from discharging his duties for the post in question. If the applicant present himself before the Assistant Divisional Engineer, Beahori on 16th January, 2006 at 10 AM, he should be deputed for medical examination, which should be conducted within a period of not more than 7 days, and if he is found fit, he be allowed to discharge the function of the post in question immediately on receipt of such medical report.

7.1. Accordingly, the OA is disposed of with liberty to the applicant to raise the question of payment of salary etc. on conclusion of the aforesaid disciplinary proceedings initiated against him. No costs.


(M.K. Gupta)
Judicial Member

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