

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

Original Application No. 514 of 2004

Indore, this the 10th day of January, 2005.

CORAM

Hon'ble Shri M.P.Singh, Vice Chairman
Hon'ble Mr.Madan Mohan, Judicial Member

T.Appa Rao
S/o Shri T.Ramulu
Employed as Pipe Line Khalasi
Under I.O.W/S.E.C.Rly. Balod
Posted at:Dallirajhara
District: Durg (CG)

Applicant.

(By advocate Shri B.P.Rao)

Versus

1. Union of India through
The General Manager
South East Central Railway
Bilaspur Zone
G.M.Office, Bilaspur.
2. The Divisional Railway Manager
South East Central Railway
Raipur Division
D.R.M.Office,Raipur.
3. The Divisional Personal Officer
South East Central Railway
Raipur Division
D.P.O.Office, Raipur.
4. The Sr.Divisional Engineer (West)
South East Central Railway
Raipur Division
Sr.DEN Office, Raipur.
5. The Assistant Divisional Engineer
South East Central Railway
AEN Office, Bhilai
Dist: Durg (CG)



6. The Inspector of Works
South East Central Railway
Durg (CG)

Respondents.

(By advocate Shri M.N.Banerjee)

ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicant seeks a direction to the respondents for payment of wages to the applicant from 7.4.2002 to 17.12.2003 with admissible interests.

2. The brief facts of the case are that the applicant was earlier posted as Pipe Line Khalasi under Inspector of Works, South East Central Railway, at Durg Station of Raipur Division. His wife filed a maintenance case against the applicant u/s 125 of Cr.P.C. before Judicial Magistrate, First Class, Durg. The Judicial Magistrate vide order dated 20.12.95 directed the applicant to pay Rs.750/- p.m. as maintenance allowance and subsequently on 19.6.2000 the Judicial Magistrate issued recovery certificate by attaching the salary of the applicant and directed the respondents to recover the due amount every month from the applicant's salary. The respondents started recovering Rs.1667/- per month from the month of July 2000 and it was continued up to February 2001. Though the respondents recovered the aforesaid amount, yet they failed to remit the amount to the court of Judicial Magistrate and for the error on the part of the respondent Railways, the applicant was detained for one month from 8.3.2001 to 8.4.2001. After release from civil prison, the applicant reported for duties on 9.4.2001 but he was not allowed to work. The applicant submitted a representation on 11.4.2001 (Annexure A4) followed by a reminder dated 16.4.2001. He submitted another representation on 28.4.2001 (Annexure A7) and on 12.5.2001 when the



applicant reported for duties, vide order dated 7.5.2001, the applicant was placed under suspension w.e.f.8.3.2001 and also on the same day this deemed suspension was revoked w.e.f.8.5.2001. The applicant refused to accept both suspension and revocation orders. However, he was not allowed to join duties and no reasons were communicated to him. The applicant made representations from time to time and ultimately he filed OA No.223/03 which was disposed of by the Tribunal vide order dated 24.9.03 (Annexure A14) with the declaration that the applicant was entitled for back wages for the period from one year before filing of the petition i.e. from 7.4.2002 onwards. The applicant submitted a representation on 28.9.2003 for compliance of the directions of the Tribunal and thereafter a legal notice was served on 6.10.2003. Thereafter, vide order dated 24.11.03 the respondents instructed the applicant to join duties. Accordingly the applicant reported before I.O.W./Balod and he was posted at Dallirajhara w.e.f. 18.12.2003. Being aggrieved by the denial of back wages, this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the applicant has neither committed any offence nor any misconduct nor violated any Railway Servants (Conduct) Rules but only on account of respondent railway administration's failure in remitting the already deducted amount from his salary to JMFC/Durg in time, the applicant was languishing in civil jail for one month from 8.3.2001 to 8.4.2001. The Railway Administration has not made any attempt to release the applicant from prison and rather he was placed under deemed suspension w.e.f.8.3.2001 and was forced to accept suspension and its revocation orders and such act of the respondents is illegal and violative of principles of natural justice. Hence the applicant is entitled for



full salary with interest from the date of illegal arrest i.e. from 8.3.2001 onwards till his joining duties at Dallirajhara.

4. In reply, the learned counsel for the respondents argued that as per the directions by the Tribunal dated 24.9.2003, the applicant was allowed to join duty but due to refusal of suspension/revocation orders and non-attendance his whereabouts, he is not entitled for back wages. Since he was under police custody for more than 48 hours he was deemed to be placed under suspension under D&A Rules. Refusal/non-accepting the government order is serious offence. It is not correct to say that he was not allowed to join duty. He could have accepted the suspension and revocation orders and replied. He also failed to inform the employer about his arrest. Since the applicant has suppressed the facts and the treatment of period as unauthorized absence is justified, he is not entitled for back wages.

5. After hearing the learned counsel for both parties and careful perusal of the records, we find that in compliance with the order of the Judicial Magistrate concerned, the respondents started recovering the alleged amount of maintenance and it was sent to the court concerned but for some reason, it could not reach the court concerned and the applicant was arrested and ~~detained~~ ^{detained} in civil prison for a period of one month i.e. from 8.3.2001 to 8.4.2001. it may be an error or mistake on the part of the respondents in not sending the amount of maintenance to the concerned court in due time for which the applicant can seek remedy. The applicant has refused to accept the orders dated 7.5.01 i.e. about his deemed suspension and ^{deemed} revocation which is not at all lawful on his part. He should have accepted both the orders and if these orders were illegal, he should have challenged it in appropriate forum but in any case, he should



not have refused to accept the orders. The respondents have permitted him to join duty on 18.12.03. The applicant could not show any cogent reason on the part of the respondents for not allowing him to join duties.

6. After considering all the facts and circumstances, we are of the considered opinion that in the interest of justice, the respondents are directed to regularize the intervening period in terms of Fundamental Rule 54, within a period of 3 months from the date of receipt of a copy of this order.

7. The OA is disposed of as above. No costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

aa/sa

पृष्ठांकन सं ओ/नं. जबलपुर, दि.....
परिलिखित :-
(1) सचिव, जबलपुर नगर पंचायत, जबलपुर
(2) जिला न्यायाधीश, के काउंसल
(3) जिला न्यायाधीश, के काउंसल
(4) सचिव, जबलपुर नगर पंचायत, जबलपुर
सूचना एवं प्रसारण विभाग के माध्यम से
उप रजिस्ट्रार

B.P. Rao Adv. Burg
Mr. Burjee Adv.

Issued
On 23.01.05