

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,**  
**JABALPUR**

**Original Application No. 655 of 2004**

**Jabalpur, this the 14<sup>th</sup> day of February, 2005**

Hon'ble Shri Madan Mohan, Judicial Member

Sunderlal, Messenger No. 4277,

S/o. late Shri Laxmi Narayan, aged 56 years,

R/o. H. No. 555, Sanjay Gandhi Nagar,

Motibada, Jabalpur (MP).

.... Applicant

(By Advocate – Shri Sajid Akhtar)

**V e r s u s**

1. Union of India, through : the Secretary,  
Ministry of Defence, New Delhi.

2. Commandant, 1 Signal Training Centre,  
Jabalpur (MP).

3. Commandant, Depot Regiment, Corps of  
Signals, Jabalpur (MP).

.... Respondents

(By Advocate – Shri P. Shankaran)

**O R D E R (Oral)**

By filing this Original Application the applicant has claimed the following main relief :

“(a) to issue a writ/writs of mandamus direction the respondents to permit the applicant to join his duties.”

2. The brief facts of the case are that the applicant was initially appointed as a Messenger in the year 1968 with the respondents Department. While working as such he fell seriously ill on 9.5.2003 and was referred by the CGHS to the national Hospital, Jabalpur for treatment, where the doctors of the hospital advised him for complete bed rest. The applicant submitted the medical unfitness certificates to the respondents. He also submitted the medical bills to the respondents but the respondents

have not accepted. The applicant made a representation to the respondents for claim of the medical bills. The applicant was transferred to Depot Regiment, Jabalpur (MP) but the same was not communicated to the applicant. After recovering from his illness the applicant reported to the office of the respondent No. 3 but he was not permitted to join his duty and was asked to report to respondent No. 2. The respondent No. 2 did not even allow the applicant to enter in their office premises. The respondent No. 3 asked the applicant to come alongwith the movement order passed by the respondent No. 2. Thereafter, the applicant filed OA No. 161/2004 and vide order dated 20.2.2004 the Tribunal disposed of the application and directed the respondents to decide the representation of the applicant. The respondent No. 2 vide order dated 30<sup>th</sup> April, 2004 decided the representation of the applicant directing him to join his duties. The applicant as directed by the respondents reported before Asstt. Admin. Officer, HQ, 1STC, Jabalpur on 6.5.2004 but was restrained to join his duty and was asked to report before respondent No. 3 but as the movement order was not given to the applicant by the respondent No. 2 the respondent No. 3 directed the applicant to come alongwith the movement order. The applicant is not in a position to report to the office of the respondent No. 3 as he not issued the movement order by the respondent No. 2. Hence, this Original Application is filed by the applicant.

3. Heard the learned counsel for the parties and carefully perused the records and pleadings.

4. It is argued on behalf of the applicant that he was transferred by the respondents to join in the office of respondent No. 3 vide movement order dated 30<sup>th</sup> April, 2003 amended vide order dated 3<sup>rd</sup> May, 2003 (Annexure R-3/A). The applicant fell ill on 9<sup>th</sup> May, 2003. When he recovered from his health he reported before the office of the respondent No. 3 but he was not permitted to join the duty and was asked to go and report to the office

of respondent No. 2, who even did not permit him to enter the office premises. The applicant is ready to serve anywhere, wherever he is permitted. Hence, he is entitled for the reliefs claimed.

5. In reply the learned counsel for the respondents argued that the respondent No. 3 is directly subordinate to respondent No. 2 and it is wrong to argue on behalf of the applicant that respondent No. 3 did not permit him to join his duties and directed to produce the movement order which was already issued by the respondent No. 2 on 30<sup>th</sup> April, 2003 later on amended on 3<sup>rd</sup> May, 2003. The applicant refused to accept the movement order. Hence, the applicant is not entitled for the pay and salary for the period for which he has not served in the Department. Thus, the action of the respondents is perfectly legal and justified and the present Original Application deserves to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the records and pleadings, we find that the applicant has not filed any refusal order issued by the respondent No. 3 by which the respondent No. 3 himself have refused to permit the applicant and asked him to produce the movement order alleged to have been issued by the respondent No. 2. Regarding it, the learned counsel for the applicant argued that no such order has been issued in writing but it was told to him verbally. In reply the learned counsel for the respondents argued that the respondent No. 3 being direct subordinate to respondent No. 2 cannot refuse and no further movement order is required for respondent No. 3 or to the applicant.

7. Considering all the facts and circumstances of the case, I am of the opinion that the ends of justice would be met if I direct the applicant to report to the office of the respondent No. 3 for joining his duties in compliance with the movement order dated 30<sup>th</sup> April, 2003 which subsequently amended on 3<sup>rd</sup> May, 2003, within a period of two weeks

from the date of receipt of a copy of this order. I do so accordingly. Further, the respondent No. 3 is directed to take him on duty from the date, the applicant reports for his duty. Regarding the period of absence from 5<sup>th</sup> May, 2003 to the date of joining in the Department of the respondent No. 3, the applicant shall make a fresh representation in this regard to the respondent No. 3 within a period of 15 days from the date of his joining in the office of the respondent No. 3 and the respondent No. 3 is directed to consider and dispose of the said representation by passing a speaking, detailed and reasoned order within a period of two months from the date of receipt of the said representation in accordance with the rules and law.

8. In view of the aforesaid terms the Original Application stands disposed of. No costs.



(Madan Mohan)  
Judicial Member

“SA” पृष्ठंकन सं ओ/न्य.....जबलपुर, दि.....  
पतिलिपि अर्पणितः--  
(1) सचिव, उच्च न्यायालय नगर संविधान, जबलपुर  
(2) आवेदक श्री/श्रीमती/व्य.....के काउंसल  
(3) प्रत्ययी श्री/श्रीमती/व्य.....के काउंसल  
(4) बांधपाल, के प्र.अ., जबलपुर न्यायाधीश  
सूचना एवं आवश्यक कार्रवाई हेतु  
उप रजिस्ट्रार

S. P. Khatun AN 202  
P. Shankar AN 202  
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Issued  
On 18.2.05  
BB