

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, C.S.

CIRCUIT COURT SITTING AT BILASPUR

Original Application No. 894/2003

Jabalpur, this the 18<sup>th</sup> day of February, 2005

Hon'ble Mr. M.P. Singh, Vice Chairman

Hon'ble Mr. Madan, Mohan, Judicial Member

Gorelal, aged about 59 Yrs.

S/o Late Shri Jairam, by  
Occupation Employee Fitter  
Grade II, Electric Loco Shed,  
R/o 12Kholi, Station Pera,  
Village Kotmi Sonar, P.O.  
Kotmi Sonar, Tahsil Janjgir  
District Janjgir-Champa(C.G.)

APPLICANT

(By Advocate - Shri Ashok Swarnkar)

VERSUS

1. Union of India,  
Through the Secretary  
Ministry of Railway  
Delhi(India)
2. General Manager  
South East Central Railway  
Bilaspur Division, Bilaspur  
(C.G.)
3. Senior Divisional Electrical Engineer,  
Electrical Loco Shed, SECR, Bhilai,  
Distt. Durg(C.G.)
4. Senior Section Engineer(M-1)  
Electrical Loco Shed,  
Marshling Yard, SECR,  
Bhilai, Distt. Durg(C.G.).

RESPONDENTS

(By Advocate - Shri S.P.Sinha)

ORDER

By Madan Mohan, Judicial Member -

By filing this Original Application, the applicant has sought the following main reliefs :-

"(i) to direct the respondents to reinstate the applicant in the post of Fitter grade II.

(ii) to direct the respondents to pay all the arrears of salary with interest @ 18% per annum.

2. The brief facts of the case are that the applicant was a fitter Gr.II in Electric Loco Shed Bhilai Distt. Durg under the respondents. According to the applicant, he has taken one day



leave from the respondents as he was having some urgent work in his village but it was unfortunate for the applicant that thereafter he suddenly fell ill and was suffering from fever. He had immediately informed the respondents about his disease on 20.7.1999 by telegram and mentioned that he is suffering from Jaundice and he was not able to walk as all the joint of his body was swelled and his mental condition was also not fit. Thereafter, the applicant had further informed the respondent No.4 about his disease through UPC dated 6.9.99 from his village and requested to extend his leaves. The Chikitsa Adhikari of Government Ayurvedic Dispensary Podimar Korba had issued a certificate in which it has been mentioned that the applicant is under treatment in his observation, a copy of the medical certificate is filed as Annexure-A-5. Thereafter, when the applicant was fit from the aforesaid disease, he went to join his duty on 7.8.03 and has submitted an application to the respondent No.3 to permit him to work and also submitted the medical certificates but the respondents have refused the applicant to do the work. The applicant further submitted that he has not been given any notice about his removal and no departmental enquiry has been done and also no adverse remark has ever been communicated to him. The action of the respondents is discriminatory and is not sustainable in the eye of law. Hence, this OA.

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

4. It is argued on behalf of the applicant that the applicant has taken one day leave from the respondents as he was having some urgent work in his village at Kotmi sonar Tahsil Janjgir Distt. Janjgir Champa. But unfortunately he became ill and subsequently he suffered from Jaundice and also he became unable to work and his son-in-law had taken him to Korba for treatment and had given the Ayurvedic treatment as well as the treatment of doctors from the Govt. Ayurvedic Dispensory. He has further stated that the Sarpanch of the village and the Chikitsa Adhikari of Govt. Ayurvedic Hospital had also issued the certificates of illness of the applicant and he



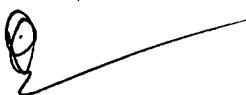
has produced all the medical certificates which was duly signed by them when he was himself fit from the disease, he went to join his duty and on 7.8.03 has submitted an application to the respondent no.3 to permit him to work but, he was refused to do the work. The learned counsel for the applicant has further argued that neither notice has been given to the applicant about his removal nor any departmental enquiry has been done. Hence the order passed by the respondents is perfectly illegal and unjustified and the OA deserves to be allowed and the applicant is also entitled for arrears of salary with interest.

5. In reply, the learned counsel for the respondents has argued that the applicant was issued with a charge sheet dated 26.5.98(Annexure-R-1) for his habitual absence from 27.10.97. An enquiry was conducted in which the applicant participated and charges were proved against him and the disciplinary authority after screening the finding passed the order of removal dated 4.10.99(Annexure-R-2) by which the applicant was removed from service with immediate effect. The applicant has not preferred any appeal against it. The learned counsel for the respondents further argued that all the allegations contained in this OA are false. The applicant was continuously absent from 21.8.96 to 20.5.97 and he was again absent from 27.10.97. Even after issuance of the charge sheet, he was absent till 28.3.99. Between this period he worked for some days, but again remained absent from 24.6.99. He was removed after due enquiry on the basis of charge sheet dated 26.5.98. Thus, after removal from service w.e.f. 4.10.99, there was no question of his joining on 31.7.03. The applicant was habitual absentee and was careless in his working, resulting in number of punishments imposed upon him and a list of punishment is filed as Annexure R-4. The learned counsel for the respondents has further stated that the applicant did not avail the medical facility of the Railway Hospital which was easily available to him. He has not mentioned any reason as to why he did not avail this facility.

6. After hearing the learned counsel for the parties and careful perusal of



the records, we find that the respondents had issued a charge sheet dated 26.5.98 on the ground of long absence of the applicant from his duty. The charges were proved against him and thereafter the disciplinary authority had passed the order dated 4.10.99(Annexure-R-2) whereby the applicant was removed from his service with immediate effect and the applicant did not file any appeal against this order of removal from service. The applicant has not mentioned in his OA that any charge sheet was issued to him. The applicant has filed some certificates issued by the Sarpanch and the Chikitsa Adhikari of Govt. Ayurvedic Dispensary Podimar Korba for certain period but he did not attend the nearest Railway Hospital for his treatment for which he was legally entitled. He has not mentioned any reason as to why he did not avail the facility of Govt. Railway Hospital in his OA. We have perused Annexure -R-4 in which his previous conduct is also shown, which goes against him. Considering all the facts and circumstances of the case, the OA is bereft of merit. Accordingly, the OA is dismissed. No costs.

  
(Madna Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

skm

पृष्ठांकन रां ओ/व्या.....जबलपुर, दि.....  
प्रतिलिपि अच्ये दिनाः—  
 (1) संसिव, उच्च व्यापारालय बांट एसोसिएशन, जबलपुर  
 (2) आवेदक श्री/श्रीमती/कु. ....के काउंसल  
 (3) प्रत्यार्थी श्री/श्रीमती/कु. ....के काउंसल  
 (4) चांगल, के.प.अ., जबलपुर व्यापारी  
सूचना एवं आवश्यक कार्यवाही हेतु

*Ashok Swarup Koy*  
Dr. B. I. Aswup  
M. P. Singh Dr. D. V.  
D. B. D. P. Singh Dr. D. V.  
D. B. D. P. Singh Dr. D. V.

*Termed*  
21-2-03