

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 403 of 1998

Jabalpur, this the 1st day of September, 2003.

Hon'ble Mr. D.C. Verma, Vice Chairman (Judicial)
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

J.P. Mishra S/o Shri Chhedi Lal Mishra
Last working as S.P.M. Sarkanda Bilaspur
President of Matachouraha Mangla Road
Kuddudand, Bilaspur (M.P.)

APPLICANT

(By Advocate - None)

VERSUS

1. Union of India through the Ministry of Postal Department through Director General Posts New Delhi.
2. Director Postal Services Raipur Region Raipur (M.P.)
3. Superintendent of Post Offices Bilaspur Division Bilaspur (M.P.)

RESPONDENTS

(By Advocate - Shri B. Dasilva)

ORDER (ORAL)

By D.C. Verma, Vice Chairman (Judicial) -

The relief claimed in this Original Application is that the applicant be allowed to join the department from 20.2.1996 and salary be paid from 13.5.1994.

2. The facts of the case is that the applicant was working with the department as Sub Postmaster, Sarkanda Sub Post Office, Bilaspur. The applicant was transferred as Postal Assistant, Bilaspur Head Office vide order dated 3.5.1994. Consequently, the applicant was relieved from Sarkanda Sub Post Office on 13.5.1994. At that time the applicant furnished a medical certificate for one month leave. After expiry of the said

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period of one month the applicant did not report for joining as he was not well. As per the OA, the applicant sent an application for medical leave from 12.6.1994 to 19.2.1996 on 20.2.1996 along with fitness certificate. The applicant also claims to have ^{given} ~~gave~~ an application to join his duties with effect from 20.2.1996, but was not permitted to join so he sent a medical certificate from 20.2.1996 to 26.2.1996 of unfitness. Again on 26.2.1996 the applicant appeared with a fitness certificate to join the duty but was not permitted to do so. Hence he has filed the present OA.

3. The respondents' case is that on being relieved from Sarkanda Sub Post Office, the applicant had given a medical leave application for one month but on expiry of the said period also the applicant did not join the transferred place. The applicant appeared in the Office of the Superintendent of Post Offices, Bilaspur for joining on 26.2.1996 and was called upon to give his explanation for the absence from 13.6.1994 to 26.2.1996 and also with regard to misappropriation of Government fund amounting to Rs. 2,98,722/- The applicant, however, did not submit his statement except informing the respondents about pendency of the criminal case with the CBI Court at Jabalpur. The respondents called upon the applicant vide their letters dated 26.2.1996, 02.3.1996, 13.3.1996 and 19.4.1996 to report for joining but the applicant failed to respond. The applicant was again asked by communication dated 22.8.1996 to report for duty but the same was returned back undelivered.

4. None has appeared for the applicant. The order-sheets also show that none has appeared for

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the applicant on various dates. Consequently, the case is being decided on merit under Rule 15 of Central Administrative Tribunal (Procedure) Rules, 1987.

5. Counsel for the respondents has been heard and pleadings on record have been perused.

6. It is the applicant's own case that he gave an application on 26.2.1996 to join the duty. According to the applicant he was not permitted to join but according to the respondents when the applicant was asked about his absence from May, 1994 the applicant failed to give any response. It is admitted to the respondents that the applicant had gave one application for medical leave for one month at the time of his relief from Sarkanda Sub Post Office, Bilaspur. In para 8 of the reply it is admitted that for various periods the applicant had sent medical certificates, with his application dated 20.2.1996. There is nothing on record to show that any orders were passed by the respondents on any of the medical certificates. There is nothing on record to show that for the period of absence any departmental proceeding was drawn against the applicant. We are unable to know whether the applicant is still in service or has been suspended/removed/dismissed because of his unauthorised absence. If the applicant has not been suspended/removed/dismissed/terminated, the respondents cannot deny him to join the duty. Though the respondents filed their reply, rejoinder thereto has not been filed by the applicant till date. So, we have to accept the uncontroverted facts brought in the reply that in spite of various communications, the applicant failed to join the duty. However, in the facts of the case, the OA is decided.

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with a direction to the respondents that in case the applicant has not been suspended/removed/dismissed/terminated from service, and reports for duty he shall be permitted to join the duty. The respondents shall also consider various medical reports submitted by the applicant and pass appropriate orders thereon within a reasonable time. The decision so taken on the medical reports shall be communicated to the applicant.

Anand Kumar Bhatt

(Anand Kumar Bhatt)
Administrative Member

rkv.

D.C.Verma

(D.C.Verma)
Vice Chairman(Judicial)

प्रशिक्षण विभाग असार, दिल्ली

- (1) अधिकारी, विभाग
- (2) अधिकारी, विभाग
- (3) अधिकारी, विभाग
- (4) अधिकारी, विभाग

*J.P. Mishra, Bilespur
B. Chakrabarti - Addl*

J. P. Mishra
12.9.03

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12.9.03