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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.606 of 1999

Jabalpur, this the 27th day of January, 2003.

Hon'ble Mr. Justice N.N. Singh- Vice Chairman
Hon'ble Mr. R.K. Upadhyaya- Member (Admnv.)

Hariram Ahirwar, aged about 41 years,
son of Shri Lalanju Gangman, Gang
No.5 Central Railway, Railway Station
Beawra R/o Hasari, Gwalior, Prem Nagar,
Tehsil and District Jhansi, U.P.

-APPLICANT

(By Advocate- Mr. S.K.P. Verma)

Versus

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

2. Divisional Railway Manager,
Bhopal Division, Bhopal.

3. Assistant Engineer, Central
Railway, Shajapur.

-RESPONDENTS

(By Advocate- Mr. S.P. Sinha)

O R D E R

By R.K. Upadhyaya, Member (Admnv.):

This application has been filed seeking a direction to the respondents to take the applicant on duty immediately and for treatment of absence from 27.7.1998 till taking on duty be treated as period spent on duty.

2. The applicant claims that he was working as Gangman in Gang No.5 under CPWI, BRRG, Shajapur under the Bhopal Division. The claim of the applicant is that while at work he sustained injuries on his left hand and was declared sick/unfit and he was under treatment from 2.3.1998 to 7.4.1998. He was given fitness certificate dated 7.4.1998 (Annexure A/4), and thereafter he attended duty on 10.4.1998 at Guna. The applicant

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claims that he has been placed under sick list from 27.7.1998 without any order and without affording any opportunity of hearing. He has filed representation on 22.3.1999, but the same has not been decided so far and his pay has been stopped from 28.7.1998 onwards. as he has not been allowed to work.

3. The respondents in their reply have stated that the applicant has not been working satisfactorily, and has been in the habit of absenting and taking leave frequently. The fact that the applicant sustained injury in his left hand is not disputed. He was posted at Station Kumbhraj. The Railway Hospital for the employees is at Guna. Without any reference, either by the department or the D.M.O. of the Railway Hospital, the applicant left the head-quarter and later he had taken treatment from the Railway Hospital, Jhansi, which is out-side Bhopal Division in which the applicant was working. A certificate from Jhansi dated 7.4.1998 (Annexure A/4) showed that he was under treatment in Jhansi Hospital from 2.3.1998 to 7.4.1998. The applicant was directed to attend ~~at~~ Guna Hospital where he reported on 8.4.1998, and he was taken on sick list, but later on did not appear and went to Jhansi for treatment. Thus, Guna Hospital treated him under sick list and he was directed to appear before Medical Officer at Bhopal for counter signed fitness certificate from the Divisional Hospital (Railways), Bhopal. The applicant did not appear before Divisional Railway Hospital, Bhopal, and on showing the medical certificate granted by the Railway Hospital, Jhansi, he joined his duties on 10.4.1998 and started working there. On enquiry from Guna Hospital, it was learnt that after reporting sick there,

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attend the Railway Divisional Hospital, Bhopal for treatment, but he did not take any treatment and has been absent since then.

4. In the rejoinder, the applicant states that there is no bar in taking treatment in another Railway Hospital. According to the applicant, he has submitted fitness certificate, but was not allowed to join duties. Learned counsel of both the parties stated that no disciplinary proceedings have been started so far against the applicant as his whereabouts are not known.

5. We have heard the learned counsel of both the parties, and have perused the material available on record.

6. In view of the fact that the respondents are willing to take him on duty, it is desirable that the applicant reports for duty forthwith. Of course, he has to get a proper fitness certificate before reporting for duty. Para 538 of Indian Railway Medical Manual, 1969 Edtn. requires that a railway employee who has been on leave on medical certificate shall not be permitted to resume duty till he has produced a fit certificate or a duty certificate in the prescribed form from the competent doctor. The treatment by Railway Hospital, Jhansi does not appear to be treatment by authorised Medical Attendant as per provisions. Therefore, the applicant should have followed the directions issued by the respondents. He is directed to do so now. The applicant may submit such a certificate within one month from the date of receipt of copy of this order and report for duty immediately within that period. If the applicant is allowed to

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join having been declared fit by prescribed Medical Officer, the absence during the period prior to his reporting for duty may be regularised in accordance with the rules, if the applicant so applies. The respondents will be at liberty to seek explanation of the applicant and take such action as may be considered necessary for such prolonged absence from duty.

7. In view of the observations in the preceding paragraph, this application is disposed of without any order as to costs.

Note : This judgment was pronounced on 8.1.2003 as per order sheet dated 8.2.2003. This judgment was misplaced by the Judicial Section as seen from the note of the Deputy Registrar dated 13.1.2003. Based on the order of the Bench in the order sheet of date, this judgment was reconstructed from the shorthand book of the PA. Accordingly, the order/judgment as pronounced on 8.1.2003 is recalled and shall not be valid. The order as pronounced on date shall only be valid in this case.

(Signature)
25.1.03
(R.K.Upadhyaya)
Member (Admnv.)

(Signature)
(N.N.Singh)
Vice Chairman

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पुस्तकालय नं. १०७५५५ जयलपुर, दि.....
पुस्तकालय नं. १०७५५५ जयलपुर, दि.....

- (1) रवि जयलपुर
- (2) के काउंसल
- (3) के काउंसल
- (4) जयलपुर

Sd/- P. Verma, DCR
Sd/- Sinha, DCR

(Signature)
28/1/03

Issued
on 29.1.03
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