

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 713 of 2000

Jabalpur, this the 7th day of May, 2004

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

S.B. Das, S/o. late Shri B.B. Das,
aged about 44 years, Head Booking Clerk,
South Eastern Railway, Chhindwara (MP),
r/o. Second MDD Puram, Chhindwara (MP). ... Applicant

(By Advocate - Shri Puneet Chaturvedi)

V e r s u s

1. Union of India,
through its Secretary,
Ministry of Railway,
Govt. of India, New Delhi.
2. Addl. Divisional Railway Manager,
South Eastern Railway,
Nagpur (MS).
3. Divisional Commercial Manager,
South Eastern Railway,
Nagpur (MS). ... Respondents

(By Advocate - Shri M.N. Banerjee)


O R D E R

By Madan Mohan, Judicial Member -

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

- "i. quash the order of disciplinary authority
Annexure A-5, dt. 26.2.1999;
- ii. set aside the order of appellate authority
Annexure A-6 dated 30.9.1999."

2. The brief facts of the case are that the applicant
was recruited on 18.3.1976 as a SINY Trainee as P/Clerk on
compassionate ground after death of his father in harness.
Thereafter he was promoted on the post of Sr. Booking Clerk
on 10.10.1988 and further he was promoted as Head Booking
Clerk on 17.9.1997 and was posted at Chhindwara Railway
Station. On 27.3.1998 the Divisional Commercial Manager,
Nagpur had issued memorandum of major penalty charge sheet



for the charges of being absent from duty with effect from 10.10.1997 to 16.3.1998 i.e. for 157 days without prior sanction of leave by the competent authority. The applicant has submitted his reply within due time given to him, and stated that he was facing domestic hardship and family disputes. He was on long illness of himself and wife also during the period of his absence. During the period of his absence he had also submitted the relevant medical certificates. Vide order dated 26.2.1999 the respondents had issued punishment notice through Chief Commercial Inspector, Chhindwara and imposed compulsory retirement ^{and ✓} from the service on the basis of available evidence the charges against the applicant for remaining unauthorised absence from duties for the period from 10.10.1997 to 16.3.1998 has been proved beyond any doubt. On 12.4.1999 the applicant preferred an appeal against the punishment order. The applicant was residing in private quarter as such it is not binding to undergo the treatment of Railway Doctor. As per the Medical Manual under rule 325 a Railway employee, if he feels that he cannot get proper relief from the treatment of a Railway Doctor is at liberty to undergo the treatment of private Doctor, so he had gone to the private dispensary. The appellate authority rejected the appeal of the applicant on 30.9.1999. Aggrieved by this the applicant has filed this Original Application claiming the aforesaid reliefs.

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

4. The learned counsel for the applicant argued that he was absent from duties for the period from 10.10.1997 to 16.3.1998 because of illness and it was not necessary to the applicant to get the treatment by a Railway Doctor. He was



at liberty to undergo the treatment of any private Doctor, hence he has undergone the treatment in a private dispensary. His appointment was on compassionate ground on the death of his father who died in harness and he himself and his wife were ailing during this period. He has drawn our attention towards Annexure A-4 dated 23.7.1998 which is certificate issued by Dr. B.B. Juneja, MBBS, Station Road CWA stating that the applicant was suffering from D Piles. He was under his treatment for PMC from 8.1.1998 to 23.7.1998. He further argued that the applicant is of quite young age and punishment of compulsory retirement is very harsh.

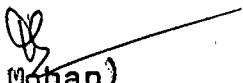
5. In reply the learned counsel for the respondents argued that there are number of punishment imposed from time to time on the applicant. The absence of the applicant from 10.10.1997 to 16.3.1998 was not for the first time but he was earlier also absent for several periods and he was also imposed punishments for several times. He further argued that the treatment of piles is available much better in the Railway Hospital than that of the treatment by the applicant from the said Dr. B.B. Juneja. The respondents further argued that this certificate relates for the period from 8.1.1998 to 23.7.1998, while the charge against the applicant was for absence from duty since 10.10.1997 to 16.3.1998. Hence the applicant has not explained his absence from duty from 10.10.1997 to 7.1.1998. He further submitted that due to his long absence for several times the Department suffered adversely.

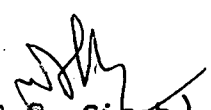
6. We have given careful consideration to the rival contentions made on behalf of the parties and we find



that the medical certificate filed by the applicant dated 23.7.1998 (Annexure A-4) issued by Dr. B.B. Juneja clearly states that the applicant is suffering from D piles, and he is taking treatment for PMC from 8.1.1998 to 23.7.1998. No other certificate has been filed by the applicant for his absence from duty from 10.10.1997 to 7.1.1998 i.e. for about three months. We also perused the Annexure R-1 in which the applicant was given punishment for four times excluding the present one in the year 1990. His absence during the year 1997 is shown as 99 days and in the year 1998 he was absent for 281 days. As stated by the respondents for piles the Railway hospital provides much better treatment than that of the treatment taken by the applicant from a private Doctor. The applicant could not show us any document as to why he did not prefer the Railway Hospital for his treatment and instead took treatment from a private Doctor for about six months. The said document Annexure A-4 seems to be not believable. Long absence of the employee adversely affects the functioning of an Institution. The absence must be for a reasonable and proper ground which the applicant has failed to prove.

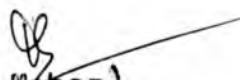
7. Hence we are of the opinion that the Original Application does not have any merit and the impugned order passed by the respondents does need any interference. Accordingly, the Original Application is dismissed. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

that the medical certificate filed by the applicant dated 23.7.1998 (Annexure A-4) issued by Dr. B.B. Juneja clearly states that the applicant is suffering from D piles, and he is taking treatment for PMC from 8.1.1998 to 23.7.1998. No other certificate has been filed by the applicant for his absence from duty from 10.10.1997 to 7.1.1998 i.e. for about three months. We also perused the Annexure R-1 in which the applicant was given punishment for four times excluding the present one in the year 1990. His absence during the year 1997 is shown as 99 days and in the year 1998 he was absent for 281 days. As stated by the respondents for piles the Railway hospital provides much better treatment than that of the treatment taken by the applicant from a private Doctor. The applicant could not show us any document as to why he did not prefer the Railway Hospital for his treatment and instead took treatment from a private Doctor for about six months. The said document Annexure A-4 seems to be not believable. Long absence of the employee adversely affects the functioning of an Institution. The absence must be for a reasonable and proper ground which the applicant has failed to prove.

7. Hence we are of the opinion that the Original Application does not have any merit and the impugned order passed by the respondents does need any interference. Accordingly, the Original Application is dismissed. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman