

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 040/00056/2018.

Date of Order: This, the 16th Day of February, 2018.

THE HON'BLE MR UDAY KUMAR VARMA, ADMINISTRATIVE MEMBER
THE HON'BLE MR S.N. TERDAL, JUDICIAL MEMBER

Shri Dimbeswar Hira,
 Son of Late Prafulla Hira,
 Village Bahakabari, P.O. Gurimari,
 P.S Kampur, District Nagaon
 Assam – 782425.

.....Applicant

By Advocate Mr B. Chaakraborty & Mr D. Sarma

-Versus-

1. The North East Frontier Railway,
 Represented by the General Manager,
 NFR Hqr. Maligaon, Guwahati-781011.
2. The Divisional Railway Manager (P)
 North East Frontier Railway, Lumding Division,
 Lumding, District Hojai, Assam Pin 782447.
3. The Senior Divisional Operating Manager,
 North East Frontier Railway, Lumding Division,
 Lumding, District Hojai, Assam Pin 782447.
4. The Traffic Inspector,
 Jagiroad Railway Station, Jagiroad,
 District Morigaon, Assam Pin 782410.
5. The Station Superintendent,
 Barahu Railway Station, Khetri,
 District Kamrup (Metro)
 Assam PIN 782403.
 North Block, New Delhi-1.

By Advocate Ms Usha Das, Railway standing counsel.

O R D E R (ORAL)

MR. UDAY KUMAR VARMA, MEMBER (A):

The matter was posted for hearing today to seek the consent of the counsels to dispose of the O.A. finally. Mr. B. Chakraborty, learned counsel for the Applicant and Ms. U. Das, learned Railway Standing counsel for the Respondents are present and have no objection if the O.A. finally disposed of at this stage.

2. Inter alia, it has been contended that the Applicant is a temporary Assistant Station Master posted at Barahu Railway Station, Khetri under Kamrup (M) District. It is submitted that prior to 01.02.2018, the Applicant was not feeling well. Therefore, he approached the Station Master for 2 (two) days sick leave. However, the Station Master advised the Applicant to visit a doctor which he dutifully did. Despite treatment given by the doctor, the Applicant was still not feeling well and therefore, he could not join his duties. After 2 (two) days, he went to join his duties. But the Station Master did not allow him to join the duties without giving any reasons.

3. Notices were issued to the Respondents. Ms. U. Das, learned railway standing counsel accepted notices on behalf of all the Respondents.

4. Ms. Das placed before us Rule 2.08 of Rules Applying to General Servants Generally which provides as under:-

"(1) No railway servant shall without the permission of his superior, absent himself from the duty or alter his appointed hours of attendance or exchange duty with any other railway servant or leave his charge of duty unless properly relieved.

(2) If any railway servant while on duty desires to absent himself from duty on the ground of illness, he shall immediately report the matter to his superior and shall not leave his duty until a competent railway servant has been placed in charge thereof."

5. According to Ms. Das, this Rule 2.08 would become operative in the case of the Applicant and thus the Station Master has rightly asked the Applicant to seek the permission of Divisional Operating Manager (DOM) who is superior authority before allowing the Applicant to join in his duties.

6. We have carefully gone through the Rules as given to us by Ms. Das. Below Rule 2.08, there is a reference of S.R. 2.08/1, S.R. 2.08/2 and S.R. 2.08/3. The composite reading of the Rule as well as S.R.s as supplied by the learned counsel for the Respondents reveals that the rational behind not allowing a railway employee who had been working in a sensitive job after availing leave or absence is to ensure that he is physically fit to handle the sensitive work that he

was handling before leave. Obviously, such a deficiencies can occur in cases of serious illness or a long absence from the duty.

7. In the instant case, the absence is only for two days and the illness is not serious. It is also a fact that the Applicant had indeed informed the Station Master about his indisposition and sought leave but was not given leave by the Station Master and was asked to consult a doctor. Therefore, the fact and circumstances of this case, in our view, does not amount to a situation where he should be denied joining his duties. The direction of the Station Master to the Applicant to go and report to DOM to seek instructions also does not make much sense because the DOM is located at Lumding which is atleast 3/4 hours journey by train.

8. It is also paradoxical that the reason for denying leave to the Applicant by the Respondents is shortage of personnel. But interestingly denial of joining to the Applicant also leads to the same situation i.e. shortage of personnel.

9. In conclusion, it has not been clear to us as to why the Applicant should not be allowed to join in his duties after being absent just for two days on a legitimate ground of sickness.

10. Given the facts and circumstances as narrated above, we deem it appropriate to direct the Respondents to allow the

Applicant to join his duties with immediate effect. They, will, of course, be at liberty to take action against the Applicant if his absence of 2 days is deemed unauthorised/irregular as per rules.

11. O.A., disposed of as above.

(S.N. TERDAL)
JUDICIAL MEMBER

(UDAY KUMAR VARMA)
ADMINISTRATIVE MEMBER

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