

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

ORGINAL APPLICATION NO.200/00887/2017

Jabalpur, this Wednesday, the 31st day of January, 2018

**HON'BLE MR.NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR.RAMESH SINGH THAKUR, JUDICIAL MEMBER**

Aditya Awasthy, S/o Shri Roop Narayan Awasthy,
Designation : Senior Section Engineer (Works)
Age: 41 year, C/o Shri Dinesh Malviya, Banerjee Colony,
Near Railway Station, Pipariya, Post Tehsil: Pipariya,
Police Station Railway Station: Pipariya,
District: Hoshangabad (M.P.) **- APPLICANT**
(By Advocate – Shri Narendra Nath Tripathi)

Versus

- 1.** The Union of India through the Secretary, Ministry of Railway,
Government of India, Rail Bhawan, New Delhi.
- 2.** Divisional Railway Manager, West Central Railway,
D.R.M. Office, Jabalpur, District: Jabalpur (M.P.)
- 3.** Senior Divisional Engineer (Coordination)
West Central Railway, Near Railway Station Jabalpur
District: Jabalpur (M.P.)
- 4.** Rajesh Tripathi, Divisional Engineer (South)
West Central Railway, Near Railway Station Jabalpur
District: Jabalpur (M.P.)
- 5.** Assistant Divisional Engineer, West Central Railway,
Pipariya, District: Hoshangabad (M.P.)
- 6.** Senior Section Engineer (Works), West Central Railway,
Railway Station, Pipariya, Post & Tehsil Pipariya,
District: Hoshangabad (M.P.) **- RESPONDENTS**
(By Advocate – Shri A.S.Raizada)

(Date of reserving the order:25.01.2018)

ORDER**By Navin Tandon, AM-**

The applicant is aggrieved that the respondents are not allowing him to join duty. Hence this Original Application has been filed.

2. It has been submitted by the applicant in the Original Application that he was sick and was advised for medical leave with effect from 10.01.2017 for two months, copy of which is attached as Annexure A-1. He could not recover fully and therefore continued to get medical attention. Finally he went to join his duties on 5th September, 2017. At that stage he is being shunted between respondents nos.4,5 6 but none of them is allowing him to join duties. He also met respondent No.3 and as directed by him he filed an affidavit with the respondent-department (Annexure A-12) submitting that he has not been received any summons or warrant from any police station or court of law.

3. He has sought for the following reliefs:

“8.1 may please direct respondent No.2 to 6 to allow the applicant to join back his duty.

8.2 Any other direction may kindly be issued to the respondents as deemed fit in the present circumstances”.

4. He has also sought for the following interim reliefs:

“9.1 may please direct respondent No.2 to 6 to allow the applicant to join back his duty.

9.2 Any other direction may kindly be issued to the respondents as deemed fit in the present circumstances”.

5. The respondents in their short reply dated 01.12.2017 submitted that the interim relief prayed for is the same as the final relief and, therefore, it can not be granted. They further mentioned that the applicant is involved in a criminal case and his bail has been rejected by the Hon'ble High Court of Madhya Pradesh. It was further submitted that the applicant is an absconder. Thana Station Road, Pipariya, District Hoshangabad have issued a letter (Annexure R-1) to respondent No.5, according to which Police had sought the cooperation of respondent No.5 in arrest of the applicant.

6. The learned counsel for the applicant has filed a letter from Thana Prabhari, Station Road, Pipariya that there is no communication from the Police Department to the Railways that the applicant should not be allowed to join duties.

7. The respondents in their reply have submitted that on date 05.09.2017 the applicant approached and submitted a bare application dated 05.09.2017 in office of SSE (W)/Pipariya requesting to take him on duty which is under consideration. Meanwhile the applicant has filed this OA before the Hon'ble Tribunal seeking same relief. It is pertinent to mention here that the representation was not along with Medical Certificate No.M15B, issued by the competent authority of Railway Hospital which is mandatory in such cases for further action. A Major Penalty Charge Sheet (SF-5) dated 16.02.2017 was also issued against

the applicant for his unauthorised absence from his duty and the same is pending due to non-cooperation of the applicant. It is also pertinent to mention here that the applicant is accused in a Crime No.20/2017 U/s 420/34 IPC registered at Thana Pipriya. In this regard a copy of the letter dated 27.01.2017 bearing letter No.Tha.Pra./Sta./Ro/Pip/102/2017 issued by the office of Thana, Station Road, Pipariya, has already been filed in the submission made by the respondent on interim relief as Annexure R/1. Hence, the applicant is an absconder. Therefore, he is not entitled for any relief at this juncture.

8. Heard both the parties.

9. Learned counsel for the applicant submitted that in case the applicant is at fault, disciplinary action can be taken against him. Further, there is no rule according to which the department can keep the applicant away from job.

10. The learned counsel for the respondents submitted that as per Rule 2(b) of Section 20 of the Administrative Tribunals Act, 1985 the applicant should have awaited for six months from the date of his representation before approaching this Tribunal. Since the applicant had approached the Tribunal much before that, no action could be taken on his application dated 05.09.2017.

11. It is the case of the respondents that the applicant was unauthorisedly absent from 10.01.2017 onwards for which a major

penalty charge sheet has also been issued to him. Since criminal case has been initiated against the applicant, therefore, the applicant is not being allowed to join duties.

12. We feel that the action of the respondents in not allowing the applicant to join duties is not as per rules. In case some medical certificate No.M-15B from the competent authority of the Railway Hospital was required, the applicant could have been directed for the same. The applicant has approached this Tribunal after more than one and half month of his appearing on duty on 05.09.2017. It is not understood how and why the respondents were taking this time for considering his application.

13. In view of the aforesaid, the application is allowed. The applicant is directed to approach respondent no.3 within 5(five) working days of the receipt of certified copy of this order. Respondent No.3 is directed to take the applicant on duty. If any formalities are required to be completed, the same may be given to the applicant in writing. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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