

24nd January, 2025
(D/L No.18)
Ct. No.4
(SKB)

W.P.C.T.341 of 2024

Digamber Mandal
Versus
Union of India and others

Mr. Subhabrata Chowdhury
....for the petitioner.

Ms. Chandreyi Alam,
Ms. Runu Mukherjee
... for the respondents.

1. Heard learned counsel for the petitioner as well as the learned counsel for the Union of India.
2. The petitioner was appointed as a Group D Khalasi on 19.05.2006. From 05.06.2013 he claims that he was ill and, therefore, he could not join his duties. A leave application was sent in this regard on 07.06.2013.
3. The authorities thereafter directed the petitioner to resume his duties on 10.10.2013. The petitioner did not resume his duties and was thus again by a letter dated 02.07.2014 directed to resume his duties. The petitioner has also been served with a Charge Memo dated 04.08.2014 on account of his absence as recorded above.

4. After filing of a reply to the Charge Memo, the petitioner has taken no steps in the proceedings as he has not appeared.
5. The petitioner had approached the Central Administrative Tribunal (in short 'Tribunal') earlier by filing an O.A. bearing No.811 of 2014 seeking a direction upon the respondents to accept his joining. In the said proceedings, the Tribunal considering the petitioner's grievance was of the opinion that the applicant should have been intimated the reasons for not being allowed to join. In this circumstance, the Tribunal directed the respondents to intimate the reasons for not allowing the applicant to resume his duties. Pursuant thereto the reasoned order dated 29.07.2015 was communicated to the petitioner which reads as follows:

"In obedience of Central Administrative Tribunal/Calcutta's Order dated 09.06.2015 in OA No.350/00811 of 2014, I have gone through the Concerned file, relevant copies, connected documents and observe as under :-

The applicant was appointed as Substitute-Khalasi on 12.12.05 and posted at Sahibganj under Sr. Sec. Engineer/Signal (Con) Sahibganj and the applicant was working at Saghibganj for last 08 years. He remained obsence from 03.06.2013 to till date. During his absent period he has sent Private Medical Certificate (PMC) 03 times for his sickness which are without certified by Rly Doctor. When Sri Mondal reported to join duty on

15.07.14 it prevailed that the person (reporting for joining) is not genuine and is not same person who had worked in Railway (Sahibganj unit) during last 08 years and was absent from 03.06.13.

In view of doubt in genuineness, he was called for verification of genuineness through several letters. But the person who reported to join duty did not turn-up till date.

Accordingly the undersigned observe that he applicant does not want to face the verification of his genuineness. So, his joining to duty is yet to be decided.

This is in compliance of Order in OA No.350/00811 of 2014.”

6. Since in the meantime an issue had arisen regarding the petitioner's identity being doubtful as is apparent from the reasoned order dated 29.07.2015 extracted above, the authorities on 18.01.2016 had communicated to the petitioner a date, i.e. 08.02.2016, when the finger print and hand writing expert would be available so as to enable the petitioner to establish his identity.
7. The authorities have stated that the petitioner again did not appear before the experts on 08.02.2016; whereas the petitioner has asserted that he had appeared, but no expert was available.
8. The learned counsel for the petitioner in today's proceedings has vehemently submitted that he is under instruction that the petitioner had made

himself available but could not be examined by the experts as no expert was there.

9. We are not inclined to interfere with the order of the Tribunal with respect to this disputed issue of fact. We find that the petitioner failed to resume his duties in spite of specific directions being given on 10.10.2013 and 02.07.2014. The petitioner has also not participated in the departmental proceedings initiated against him by Charge Memo dated 04.08.2014.

We also find from the earlier reasoned order that when a dispute arose regarding the identity of the petitioner, the authorities made efforts to ascertain or verify the genuineness of his claim. The petitioner however chose not to appear before the authorities. The same is evident from the earlier reasoned order dated 29.07.2015.

10. Even thereafter, pursuant to the directions of the Tribunal in O.A. 244 of 2016, similar opportunity was given to the petitioner but he has chosen not to avail the opportunity.

11. We are not inclined to accept the submission that the petitioner was going for verification but the authorities were not available, for the simple reason that it is only natural human conduct, that if the petitioner

went to the authorities and the experts were not available, the petitioner would have at least written a letter to the authorities or objected to non-availability of such expert on the various dates on which he was called. There is not even a chit of paper to suggest that he has lodged any objection in this regard. We find that ample opportunity was given to the petitioner. We are, therefore, not inclined to interfere with the order passed by the Tribunal. The writ petition stands dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)