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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1074/98

NEW DELHI, THIS THE 29TH DAY OF MAY, 1998.

HON'BLE MR.JUSTICE K.M.AGARWAL, CHAIRMAN
HON'BLE MR. R.K.AHOOJA, MEMBER(A)

Prabhu Dayal
S/o Sh.Ganpat
Rly. Quarter No.143/L
Railway Station
Delhi Sarai Rohella

...Applicant

(BY ADVOCATE SHRI B.N.BHARGAVA)

Versus

1. U.O.I. Through
The General Manager
Northern Railway
Baroda House
New Delhi.
2. The Divisional Railway Manager
Northern Railway Division
Bikaner (Rajasthan)
3. The Station Superintendent
Railway Station
Delhi Sarai Rohella

...Respondents

ORDER

JUSTICE K.M.AGARWAL:

It was heard on admission on 28.5.1998 but the order is being passed today.

2. The applicant was charge-sheeted for unauthorised absence from 5.1.1996 to 13.11.1996 (10 months) as shown by the enquiry report, (Annexure A-8). At the outset of the proceedings, the applicant admitted the charges levelled against him in writing. On that basis, he was removed from service by the impugned order. It was upheld by the appellate authority.

3. The learned counsel for the applicant did not dispute that such a confession was made by the applicant, but he submitted that it was under coercion. We find no material to arrive at the conclusion that the confession or admission made by the applicant about charges levelled against him was obtained by force, fraud or coercion.

4. Referring to the impugned order, (Annexure A-1), it was argued that the absence of the applicant from 14.8.1988

to 16.5.1990 (21 months), from 11.6.1991 to 27.5.1993 (24 months) and from 28.8.1995 to 29.10.1995 (2 months) was also taken into account while inflicting the impugned penalty, though there was no charge in respect of the alleged unauthorised absence during these periods. It was argued that the charge was only in respect of absence from 5.1.1996 to 13.11.1996 and, therefore, the penalty order was vitiating. This contention also deserves to be rejected. The order says "The confession by the employee does not dilute the immensity of the offence." It appears that after admitting his absence between 5.1.1996 and 13.11.1996, the applicant wanted to be excused or pardoned for his absence. In this background it was observed that earlier also he remained on similar unauthorised absence and, therefore, no case was made out for condoning the absence during the period for which he was charged.

5. Lastly, it was argued that the applicant was not allowed the assistance of a defence counsel or to adduce the evidence in his defence. This ground also fails. When the charges were admitted, there was no question of allowing him to adduce evidence in defence or to provide the assistance of a defence counsel. Further it does not appear that any prayer in that regard was ever made by the applicant.

6. For the foregoing reasons we find no case for interference with the impugned order of penalty as affirmed by the appellate authority against the applicant. Accordingly this O.A. is hereby summarily dismissed.

KM
(K.M.AGARWAL)
CHAIRMAN

R.K.Ahooja
(R.K.AHOOJA)
MEMBER (A)