

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

RA No.99/98 in OA 727/94

New Delhi, this 28th day of July, 1998

Hon'ble Shri T.N. Bhat, Member(J)
Hon'ble Shri S.P. Biswas, Member(A)

Union of India, through

1. General Manager
Northern Railway
Baroda House, New Delhi

2. The Divl. Railway Manager
Northern Railway, Moradabad

Applicants

(By Shri R.L.Dhawan, Advocate)

versus

Shri Rajesh Kumar
s/o Shri Ram Bharosay
RZ 13A, Nehru Vihar, New Delhi

Respondent

ORDER(in circulation)

Hon'ble Shri S.P. Biswas

This RA has been filed on behalf of the Union of India against our order dated 3.3.98 in OA 727/94. By the said order, termination orders in respect of the applicant therein were quashed and it was directed that the applicant shall be reinstated as Substitute Loco Cleaner within a period of six weeks from the date of receipt of a copy of that order. The respondents seek modification of the order through this RA on the ground that there is an error of law apparent on the face of record inasmuch as that in terms of Rule 5(4) of Railways Servants (D&A) Rules, 1968, where penalty of removal imposed upon the railway servant is set aside or declared or rendered void in consequence of or by a decision of a court of law and the disciplinary authority on consideration of the case decides to hold a further enquiry against him on the allegation on which

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the removal or dismissal was originally imposed, the railway servant shall be deemed to have been placed under suspension from the date of the original order of removal from service and shall continue to remain under suspension until further orders. The contention of the respondents is that due to closure of Steam Shed, there is no requirement/vacancy of Loco Cleaner against which the applicant could be accommodated. They have cited the case of CP 44/98 in OA 611/93 decided by the Bench comprising the Hon'ble Chairman, in which a similar case was involved, in which it was held that the remedy that may now be available to the applicant was to join the post subject to objections and agitate the matter, if so advised, again in appropriate proceedings.

2. To add strength to their contention, applicants would further argue that the Hon'ble Supreme Court have laid down law in the case of K. Ajit Babu Vs. UOI & Ors. JT 1997(7) SC 24 that precedent sets a pattern upon which future conduct may be based, Tribunal has to consider a judgement rendered in an earlier case as precedent and decide the application accordingly.

3. In view of the above position, applicants seek review of judgement dated 3.3.98 and modify the order suitably.

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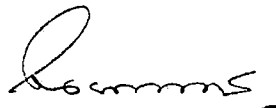
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4. We have considered the above averments. Accordingly, we call our order dated 3.3.98 and modify the direction (ii) to the following extent:

"The applicant shall be reinstated as Substitute Loco Cleaner against an available vacancy within a period of two months from the date of receipt of a copy of this order".

5. Registry to issue copy of this order to both the parties.

RA is thus disposed of. No costs.


(S.P. Bhaswas)
Member(A)


(T.N. Bhat)
Member(J)

C /gtv/