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CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 65 of 1995

New Delhi, dated the 3rd November, 1995

HON'BLE MR. S.R. ADIGE, MEMBER (A)

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Lallu,
S/o Shri Ganga,
Gangman under P.W.I.
(Gang No.7),
Tughlakabad,
New Delhi.

.... APPLICANT

(By Advocate: Shri D.S. Mahendru)

VERSUS

1. Union of India through
the General Manager,
Northern Railway, Baroda House,
New Delhi.

2. The Divisional Engineer,
Northern Railway,
Tughlakabad,
New Delhi.

... RESPONDENTS

(Shri B.K. Aggarwal, Advocate)

JUDGMENT

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

The applicant Shri Lallu was proceeded against departmentally on 2.2.93 (Ann. A-I) on the charge that after availing of sanctioned leave he should have reported back for duty on 5.6.92 but till 1.2.93 he had not reported for duty. Even on earlier occasions, totalling 879 days as indicated in the charge sheet, he had unauthorisedly absented himself which showed that he had no devotion to duty. The applicant was

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called upon to show cause if any to the charge sheet which he did vide reply (date unclear) at Annexure A-4.

2. The show cause reply not being found satisfactory departmental proceedings went ahead and the E.O. in his report (date unclear) found the applicant guilty of the charges. The disciplinary authority in his letter dated 20.9.1993 addressed to the applicant (Ann. R-7) concurred with the findings and prior to imposition of the penalty he gave the applicant due opportunity of being heard.

3. A copy of the enquiry report was stated to have been annexed with the letter dated 20.9.93, but from the respondents' letter dated 1.2.94 (Annexure R-8) it appears that till that date the applicant did not avail of that opportunity.

4. Accordingly by impugned Memo dated 1.7.94 the applicant was ordered to be removed from service and his undated appeal (Ann. A-5) was rejected vide impugned order dated 26.10.94 (Annexure A-3). The applicant now claims reinstatement.

5. We have heard Shri D.S. Mahendru for the applicant and Shri B.K. Aggarwal for the respondents.

6. The first ground taken is that the applicant is a regular employee and is therefore protected by Art. 311 of the Constitution. It is for ~~that~~ reason that regular Departmental Enquiry was conducted in respect of the applicants conduct. This ground therefore has no substance. Secondly it has been contended that the charge sheet was served on the applicant only on 4.7.94. We are not prepared to believe this contention of the applicant because in the top right hand corner of the charge sheet form (photocopy) there is the endorsement of a witness dated 2.2.93 that the applicant received the same in his presence, and below that is the LTI of the applicant. Furthermore from the examination and cross examination of the applicant in the DE, a photocopy of which is on record, as well as the contents of the Enquiry report itself it is manifest that the applicant participated in the enquiry which was held much before 4.7.94. This also negatives the third ground taken by the applicant that he was not informed of the enquiry proceedings before 4.7.94. Fourthly it has been contended that no copy of the inquiry report was furnished to the applicant but in the face of the respondents letter dated 1.2.94 clearly stating that the inquiry report was made available to the applicant, this ground also fails. Fifthly it has ^{been} / contended that his represen-



tation (undated) against the charge sheet remained unreplied to, but this is not sufficient to vitiate the proceedings, as ample opportunity was given to the applicant to defend himself. Sixthly it is argued that the impugned appellate order is a non-speaking one, but a perusal of that order is sufficient to negative this ground also.

7. Under the circumstances no legal infirmity can be detected in the respondents' action, which warrants our interference. This O.A. fails and is dismissed. No costs.

A. Veda Valli
(DR. A. VEDAVALLI)
Member (J)

S. R. Adige
(S.R. ADIGE)
Member (A)

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