

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. N o.882 of 1995

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New Delhi, dated the 9th July, 1997

HON'BLE MR. S.R. ADIGE, MEMBER (A)
HON'BLE Mrs. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri Kishore Singh,
Ex-Asst. Station Master,
Northern Railway,
Delhi-Shahdara,
Delhi.

R/o Vill. Hajipur,
P.O. Hathras,
Dist. Aligarh.
U. P.

.... APPLICANT

By Advocate: Shri B.S.Maine

VERSUS

Union of India through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divl. Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.

... RESPONDENTS

None appeared

ORDER (Oral)

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

Applicant impugns the Divisional Operating Manager (M), Delhi Division order dated 19.1.1994 (Ann. A-1) dismissing him from service and the appellate authority order dated 15.2.94 (Ann. A-1/A) reducing the punishment to reduction in rank by reverting the applicant to grade Rs.1200-2040 with basic salary fixed at Rs.1200/- on permanent basis.

2. Shri Mainee appears for applicant and has been heard. None appeared for respondents even on the second call.

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3. As this is an old case we are, therefore, proceeding to dispose it of after hearing applicant's counsel, Shri Mainee and perusing the materials on record. Shri Mainee has invited our attention to the Tribunal's Order dated 1.4.97 in O.A. No. 1242/95 B.D. Lamba Vs. U.O.I. & Ors. in which one of us (Hon'ble Shri S.R.Adige, M(A) was a party and stated that present case is fully covered by the said judgment.

4. Upon perusal of materials on record in the present case and after hearing Shri Mainee, we are satisfied that the said judgment in B.D.Lamba's case (Supra) fully covers the present case.

5. Applying the ratio of the judgment in B.D.Lamba's case (Supra) to the facts of the present case, we allow this O.A. for the reason that there is a fatal infirmity in the dismissal order dated 19.1.94, inasmuch as the same was passed by the Divl. Operating Manager (Senior Scale of Rs.3000-4500), while applicant stood confirmed as S.M. by order of Sr. D.P.O. (JAG of Rs.3700-5000). Applicant thus stood dismissed by an authority subordinate to that by which he had been appointed. As the dismissal order passed by the disciplinary authority is fatally infirm, the appellate authority's order also cannot be sustained.

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7. In the result the impugned disciplinary authority order dated 19.1.94 as well as appellate authority order dated 5.2.94 are quashed and set aside. Applicant is entitled to all the consequential benefits flowing therefrom in accordance with law which shall be paid within a period of three months from the date of receipt of a copy of this order. We direct accordingly. No costs.

8. As the O.A. succeeds on this ground, we do not consider it necessary to discuss the other points taken by applicant in the O.A.

9. In this connection we are informed by Shri Mainee that applicant has since retired on superannuation.

Lakshmi Swaminathan

(Mrs. LAKSHMI SWAMINATHAN)
Member (J)

/GK/

S.R. Adige

(S.R. ADIGE)
Member (A)