

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 496/1996

New Delhi this the 31st day of January, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SMT. SHANTA SHASTRY, MEMBER (A)

Mohd. Salim S/O Qamaruddin (deceased)
through Legal Representative
Mrs. Sitara Begum widow of
late Mohd. Salim,
R/O Vill. Nagla Mazid,
Line Par Tundla,
Distt. Firozabad (UP).

... Applicant

(By Shri B. S. Mainee, Advocate)

-Versus-

1. Union of India through
General Manager, Northern Railway,
Baroda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway,
Allahabad.
3. Divisional Operating Manager (P),
Northern Railway,
Allahabad.

... Respondents

(By Shri Rajinder Khattar, Advocate)

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

Original applicant, Shri Mohd. Salim, has died pending the present O.A. His widow who is his legal representative has been brought on record in his place.

2. Present O.A. impugns an order of removal of the original applicant from service passed in disciplinary proceedings initiated against him. The original applicant was charged of being unauthorisedly absent from duty from 9.12.1991 onwards. The enquiry,

it is clear, has been conducted ex parte. Record shows that the original applicant was suffering from mental illness and was under treatment at least from 11.8.1992 and onwards. It, however, appears that he was also under treatment for mental ailment prior to 11.8.1992 at Agra Mental Hospital. We have on record a free railway pass issued in favour of the original applicant to enable him to undertake journey for the purpose of receiving treatment. We also have a letter addressed by his father dated 31.7.1993 informing the enquiry officer that the original applicant was unable to attend the enquiry on account of his mental illness. In view of the aforesaid illness, we find that the enquiry officer was not fully justified in conducting the disciplinary proceedings behind his back and without affording him an opportunity to show cause against the proposed penalty sought to be imposed on him. The enquiry officer in his report has also not discussed the evidence relied against the applicant. Under the circumstances, we find that the impugned order issued by the disciplinary authority on 16.2.1994, the order passed in appeal on 14.2.1995 and that of the reviewing authority dated 12.12.1995 are liable to be quashed and ~~are~~ set aside. We order accordingly. Original applicant will be entitled to reinstatement in service, however, without backwages.

3. In view of this order, the present applicant in the O.A. who is the heir and the legal representative of the original applicant will be entitled to receive monetary benefits, if the same

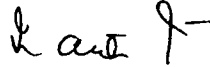
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would become payable to the original applicant in view of the present order of reinstatement. The reliefs which may be payable to the present applicant be paid over expeditiously and in any event within a period of three months from the date of service of this order.

4. Present O.A. is partly allowed in the aforestated terms. There shall be no order as to costs.



(Ashok Agarwal)
Chairman



(Shanta Shastry)
Member (A)

/as/