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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A.No.672/97

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)  
Hon'ble Smt. Shanta Shastry, Member(A)

New Delhi, this the 10th day of May, 2000

Kiram Singh  
T.No. T-69  
Skill Grade I  
Northern Railway  
Railway Workshop  
Amritsar  
Presently staying at  
C-II/304 Janakpuri  
New Delhi. ... Applicant  
(By Shri H.K.Gangwani, Advocate)

Vs.

1. Union of India through  
The General Manager  
Northern Railway  
Baroda House  
New Delhi.
2. Dy. Chief Mechanical Engineer  
Northern Railway Workshop Amritsar
3. Chief Mechanical Engineer  
Northern Railway  
Baroda House, *New Delhi*  
(By Shri R.L.Dhawan, Advocate)

O R D E R (Oral)

By Smt. Shanta Shastry, Member(A):

A major penalty charge-sheet was issued against the applicant while functioning as Skilled Gr.I for unauthorised absence from 1.8.1994 to 3.7.1995. After a detailed enquiry, the enquiry officer found the charge of unauthorised absence proved. On the basis of the findings of the enquiry officer, the disciplinary authority imposed the penalty of removal from service of the applicant. On appeal being filed by the applicant, the appellate authority reduced the punishment to compulsory retirement from service with immediate effect purely on sympathetic and humanitarian grounds by order dated 12.3.1996.

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2. It is the case of the learned counsel for the applicant that in fact <sup>the</sup> entire enquiry was completed in one sitting only. The applicant was not allowed to produce the defence witness and was not even allowed to cross examine the prosecution witnesses. The applicant was absent because he was seriously sick being a diabetes patient, most of the time he was unconscious. In spite of producing medical certificates from private doctor, the respondents without even examining his medical certificates held him guilty of the charge and retired him compulsorily.

3. The learned counsel for the respondents submits that the enquiry was conducted properly and the applicant was given all the facilities such as engaging of defence helper and given the opportunity to cross-examine the prosecution witnesses. The applicant could not produce the medical certificates as required under the railway rules. The punishment of compulsory retirement awarded to the applicant is very much in order.

4. We have heard the learned counsel for the applicant as well as the respondents and we have also perused the relevant material and the pleadings available on record. We find from the enquiry report that the enquiry was conducted as per the procedure and a proper opportunity was given to the applicant for his defence. The learned counsel for the applicant contended that the applicant was not given any opportunity of cross-examination. We find from

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the enquiry report that the applicant chose to defend himself and failed to cross-examine the witnesses even though given the opportunity. The learned counsel for the applicant at this stage also raises the plea that the relevant documents and the list of witnesses were not provided to him. We find from the charge-sheet issued to the applicant that relevant documents as detailed in Annexure 3 were provided to the applicant. Besides, the applicant has not raised this as a ground in his OA. The learned counsel for the applicant has further submitted that the enquiry was completed in one sitting. We find that the enquiry had been fixed first on 20.9.1995 wherein the applicant was asked to attend the enquiry along with his defence helper thereafter the applicant had appointed his defence helper. But the defence helper did not turn up <sup>4</sup> on 20.9.1995. In order to give all possible opportunities to the applicant another date was fixed for the enquiry, i.e., 12.10.1995. The applicant chose to defend himself. Thus, it is obvious that the enquiry was not completed in one sitting and that the applicant was given enough time for the enquiry and two witnesses were examined in this case. It should not, therefore, have taken more than one sitting to complete the enquiry particularly when even the applicant chose not to cross-examine the witnesses. The applicant did not examine any defence witnesses either.

5. The contention that his medical certificates produced from the private doctor were not even examined cannot be accepted because as per the rules of the railways the medical certificate has to

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be from the authorised medical officers. The applicant has stated that since he was sick for almost one year, he could not even inform the authorities concerned about his sickness. Though the applicant was sick <sup>h</sup>that his family members could have informed the authorities concerned about his sickness. Also it cannot be said that the applicant was unconscious through<sup>of absence</sup> out the period. Besides the question whether the applicant remained absent unauthorisedly or otherwise, is not for us to go into. This is for the enquiry officer to have established which he has done on the basis of the evidence of the prosecution witnesses as well as available records. In the facts and circumstances of the case, we do not find any fault with the findings of the enquiry officer or the orders passed by the disciplinary authority or the order modified by the appellate authority. In the result, the OA is dismissed. We do not order any costs.

6. The learned counsel for the applicant submits that the applicant has not been paid the pensionary benefits in full, only part payments have been made. The respondents are directed to release to the applicant the full admissible pension and other retirement dues expeditiously in accordance with law. This may be done within a period of three months from the date of receipt of a copy of this order.

*Shanta Shastri*  
 (SMT. SHANTA SHASTRY)  
 MEMBER(A)

*V. Rajagopala Reddy*  
 (V. RAJAGOPALA REDDY)  
 VICE CHAIRMAN(J)

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