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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1738/2000

Monday, this the 10th day of February, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri Govindan S. Tampi, Member (A)

Shri Srikant Prajapati
s/o Shri Subedar Prajapati
Ex. Bungalow Khalasi
Under General Manager
Railway Electrification
Allahabad
R/o House No.53
Gali No.4
Shastri Nagar, New Delhi-52

..Applicant

(By Advocate: Mrs. Meenu Mainee for Shri B.S. Mainee)

Versus

Union of India through

1. Shri H.P. Srivastava
General Manager
Railway Electrification
Allahabad
2. The Chief Liaison Officer
Railway Electrification
Tilak Bridge
New Delhi

..Respondents

(None present)

O R D E R (ORAL)

Shri Govindan S. Tampi:

Heard Mrs. Meenu Mainee, learned proxy counsel for the applicant. None was present for the respondents even on the second call. The OA, therefore, is being disposed of in terms of Rule 16 of C.A.T. (Procedure) Rules, 1980..

2. Applicant (Shri Srikant Prajapati) is aggrieved that his services have been terminated w.e.f. 16.3.2001 by the respondents and seeks that the same be quashed and he be reinstated in service with consequential benefits. The applicant, who was appointed on 19.6.1996 as Bungalow

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Khalasi with Shri N.P.Srivastava, Adviser (Budget), Railway Board's Office was continuing to perform duties, by three monthly extensions granted from time to time. On Shri Srivastava's transfer to Allahabad as General Manager Railway Electrification, the applicant was posted to work as domestic help at the residence of his daughter at Vasant Kunj, New Delhi. In spite of the unhappy arrangement, the applicant was performing his duties satisfactorily. Still, a false complaint was filed that he was absent from duty w.e.f. 8.6.1998. Following this, he was called to Allahabad, where he explained his case and sought permission to rejoin duty from 10.11.1998. But a charge-sheet was issued to him alleging unauthorised absence from 8.6.1998 in support of which documents were forged showing that the applicant was absent from the office of General Manager (E) Railway Electrification, Allahabad. The applicant denied the charge and sought permission to rejoin duties which was denied. Few subsequent representations also met with the same fate, on account of the deep prejudice of the respondent No. 1 against him. In the inquiry also was injustice caused to him. His plea for deferring the same as his defence assistant was away was not agreed to. He was also denied journey pass to attend the inquiry. The proceedings were gone through improperly by the inquiry officer, at the end of which charge was shown as proved. Following the above, his services were terminated on 16.3.2001, but after he had filed this OA. According to the applicant, he has been harassed only for not affording to personal service of the family of respondent No.1. The action of the Department was totally improper. It is also pointed out

that no pay and allowances have been paid to the applicant from the date he was shown to have been unauthorisedly absent till date. The above pleas were forcefully reiterated by Ms. Meenu Mainee, who pleaded that the applicant had been unjustly and unfairly dealt with and, therefore, the OA should be allowed to render him justice.

3. On perusal of the counter affidavit filed by the respondents, we find that the applicant, who was originally attached as Bungalow Khalasi to Shri Srivastava when he was working in Delhi in the Railway Board, was not transferred to Allahabad when Shri Srivastava went on promotion as General Manager Railway Electrification, but was retained in his Camp Office at Delhi by order dated 28.1.1998. Arrangements for the payment of wages were also made accordingly. It is while performing duties in Delhi that the applicant was absent from 8.6.1998, for which proceedings were initiated. The applicant's plea that documents were forged to show that he was absent from Allahabad had no basis at all as the applicant had been detailed to perform duties not at Allahabad but at Delhi itself and wherefrom he had absented from 8.6.1998. He was not permitted to rejoin duty as he did not produce any medical certificate showing his fitness, when he appeared in the above at the end of his absence. It was also shown that the medical certificate produced by him related to the period October and November, 1998 but not to the period starting from 8.6.1998 when he in fact was away from duty. Disciplinary proceedings were initiated against him properly and he was, after the proceedings were fully gone through, removed from service w.e.f.

16.3.2001. The applicant had not been able to show at any time that he had obtained the sanction of competent authority for being away for duty. The punishment meted out to him for the unauthorised absence was commensurate with the gravity of the misconduct and did not warrant any interference from the Tribunal, according to the respondents.

4. We have carefully considered the matter and we find that the applicant has not made any convincing case for himself. The applicant, who was originally placed as Bungalow Khalasi in the residence of Shri Srivastava, Adviser (Budget), Railway Board at Delhi, was retained in the Camp Office at Delhi of General Manager (E) of Allahabad, to which post Shri Srivastava had been posted. However, the applicant is found to have absented himself from duty w.e.f. 9.6.1998 and nothing has been brought on record to show that he had obtained the sanction of the proper authority. Learned proxy counsel for the applicant pointed out that no order has been passed transferring the applicant from Delhi to Allahabad but muster sheet had forged to show that he was absent from Allahabad. This allegation has no basis at all. According to the respondents, the applicant had been removed from service on 16.3.2001 for unauthorised absence from 8.6.1998 and the proceedings have been correctly gone through. It is true that he was originally attached to the Adviser (Budget) at Delhi, but after transfer of the officer to Allahabad, he was posted at the Camp Office of the General Manager, wherefrom he has been absenting w.e.f. 8.6.1998. He was not permitted to rejoin duty after he returned from



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his illness, as no medical fitness certificate was produced. The inquiry proceedings were also correctly conducted and nothing further remains to be done. Learned proxy counsel for applicant was at considerable pains, during the oral submissions, to show that muster roll had been forged to present the picture that the applicant was absent at Allahabad, while he was expected to be only in Delhi. This argument has no basis as the applicant had in fact been retained at Delhi in the Camp Office of General Manager (E), Allahabad and it was from his Camp Office at Delhi, the applicant was absent. It is also on record that the applicant did approach the respondents-organisation for permitting him to rejoin duties, which he did in November, 1998 with medical certificates for the period of October and November. There is nothing on record to show that the period of absence from June to October, 1998 has been regularised in any manner. The proceedings initiated against the applicant were, therefore, in order and cannot be assailed. The punishment meted out to him also, in the circumstances, cannot be termed as harsh or disproportionate. At the same time, we observe that the applicant had not been placed on suspension at any time between the period when he was found to be absent and his date of ultimate removal on 16.3.2001. The respondents have not been able to contest the charge that for that period the applicant has not been paid any salary. This period would have to be regularised in accordance with law and rules.

5. In the circumstances, we are convinced that the respondents' action in initiating disciplinary proceedings



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against the applicant for his unauthorised absence from June, 1998 till October, 1998, which culminated in his removal on 16.3.2001. The same is good in law and is, therefore, upheld and OA is dismissed. Side by side, we direct the respondents to pass appropriate orders with regard to the period he was stated to be absent from duty, i.e., from June, 1998 to March, 2001 in accordance with law. This may be done within four months from the date of receipt of a copy of this order. is entitled for draw his pay and allowances for the period after his return from duty in October, 1998 till the date of his removal, i.e., 16.3.2001. This amount may be sanctioned and disbursed to the applicant within a period of two months from the date of receipt of a copy of this order.

6. Subject to aforesaid, OA is disposed of. No costs.

(Govindan S. Tampi)
Member (A)

(V.S. Aggarwal)
Chairman