

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI****O.A. No.** 2291/89

199

~~**T.A. No.**~~**DATE OF DECISION**

2.9.1993

Shri A.A. Khan

Petitioner

Shri Umesh Mishra

Advocate for the Petitioner(s)**Versus**

Union of India

Respondent

None

Advocate for the Respondent(s)**CORAM****The Hon'ble Mr. J.P. Sharma, Member (Judl.)****The Hon'ble Mr. B.K. Singh, Member (A)**

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGEMENT

(of the Bench delivered by Hon'ble
Mr. J.P. Sharma, Member)

The applicant has assailed the order dated 4.8.1989 by which a revision petition of the applicant was rejected. The revision petition was filed by the applicant as per the direction given in OA-1469/88. The Divisional Railway Manager, while disposing of the revision petition, held that it will not be possible to hold any enquiry because the threat of violence still persists from the staff members and other personnel of North-Eastern Railway, and that it continues to persist.

In view of this, it would not be reasonable and practicable for witnesses to come forward or give evidence at this stage. It is further observed that some of the witnesses would not be available by virtue of having retired or having been transferred elsewhere and looking to the time-gap of the misconduct alleged against the applicant/revisionist, it would not be possible for the witnesses to depose correctly for fear of intimidation from the side of the staff members.

2. The applicant has prayed for grant of the relief to quash the aforesaid order and since there is no evidence against him, he is entitled to be reinstated with full back wages and continuity of service along with other benefits and a direction in that regard be issued to the respondents.

3. We have heard the learned counsel for the applicant. None appeared for the respondents. The applicant was appointed as Engine Cleaner on 9.5.1961 in the North-Eastern Railway. He was removed from service under Rule 14 (II) of Railway Servants (Discipline & Appeal) Rules, 1968 on 3.2.1981. During the course of the arguments, the learned counsel for the applicant argued that the Hon'ble Supreme Court has considered the cases of the Railway employees working in Loco running staff of different zones who were dismissed under Rule 14(II) of the

Railway Servants (Discipline & Appeal) Rules for their participation in the Loco running staff in January, 1981. In each of these cases, the disciplinary authority held that it was not reasonably practicable to hold an enquiry. The Hon'ble Supreme Court disposed of the matter* with the following directions:-

- (i) Employees who were dismissed under Rule 14(2) for having participated in the Loco Staff strike of 1981 shall be restored to their respective post within a period of three months from today.
- (ii) (a) Since more than three years have elapsed from the date the orders were found to be bad on merits by one of the tribunal it is just and fair to direct the appellant to pay the employees compensation equivalent to three years salary inclusive of dearness allowance calculated on the scale of pay prevalent in the year the judgement was delivered, that is, in 1990.
(b) This benefit shall be available even to those employees who have retired from service. In those cases where the employees are dead the compensation shall be paid to their dependents. The compensation shall be calculated on the scale prevalent three years immediately before the date of retirement or death.

*UOI & Ors. Vs. Redidappa & Anr., 1993(4), JT470 S.C.

(iii) Although the employees shall not be entitled to any promotional benefit but they shall be given notional continuity from the date of termination till the date of restoration for purposes of calculation of pensionary benefits. This benefit shall be available to retired employees as well as to those who are dead by calculating the period till date of retirement or death.

4. In view of the above, the present application is also disposed of with the direction to the respondents to give to the applicant the benefit of the judgement of the

Hon'ble Supreme Court. No costs. The respondents comply with the judgment in three months from the date of receipt of the copy of the judgment.

(B. K. Singh)
Member (A)

2nd Sept, 1993.

J. P. Sharma
(J. P. Sharma)
Member (Judl.) 2/9/93