

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A.411/88

Date of decision: 23.4.92

Prayag Narain

.. Applicant

Versus

Union of India & ors. .. Respondents.

Sh.Umesh Mishra .. Counsel for the applicant.

Sh.O.N.Moolri .. Counsel for the respondents.

CORAM:

The Hon'ble Sh.Justice Ram Pal Singh, Vice Chairman(J).

The Hon'ble Sh.A.B.Gorthi, Member(A).

J U D G E M E N T

(Delivered by Hon'ble Sh.Justice Ram Pal Singh, V.C.(J) ).

The applicant was <sup>a</sup> permanent employee of the respondents working as Driver Grade 'C' posted at New Delhi Northern Railway. There was a call of strike on 28/29 January 1981. The applicant was marked absent on 28.1.81 and was not allowed to work by the respondents on 30.1.81, though the contentions of the applicant is that he did not participate in the strike. The applicant was removed from service but later on the removal order was withdrawn. Vide Annexure 'B' dated 5.2.81 the applicant had been removed from service. He filed an appeal as no departmental enquiry was held before passing of Annexure 'B'. The applicant challenged this order by means of writ petition before the High Court of Delhi under Articles 226/227 of the Constitution of India. After coming

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into force of the Administrative Tribunals Act of 1985 this matter was transferred to the Tribunal U/s 29 of the Act. This Tribunal directed the applicant to go before the authorities and file the representations. The representation was filed and was rejected vide Annexure 'A' by an order dated 14th December, 1987. Consequently, the applicant challenged this order before this Tribunal by filing this O.A. Without unnecessarily burdening the judgement with facts we directly come to the point which has been taken by Sh.Umesh Mishra, learned counsel for the applicant. He has placed reliance in the case of Tula Ram reported in 1992 C.S.J. C.A.T. 11 P.B. in which one of us was a member (Hon'ble Sh.Justice Ram Pal Singh). In this judgement it was held that as the industrial peace at that time was not congenial for holding a departmental enquiry now after a passage of ten years the atmosphere has changed as well as in view of this the order of the disciplinary authority was quashed by us, by which the applicant was removed from service and the matter was remitted to the respondents for holding an enquiry, if possible, in accordance with law. But this case is bit different from the case of Tula Ram (supra).

2. The applicant in this O.A. has since retired on attaining the age of superannuation. Sh.Umesh Mishra, learned counsel for the applicant cited the case of Gokul Chand Barua, Guwahati 1989 (2) C.A.T. A.I.S.L.J. page 187. In this case a similar situation was adjudicated

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and the directions were made with regard to the applicant who had superannuated at the time of the pendency of the O.A. Placing our reliance on this judgement we allow this O.A. and quash the order of removal of the applicant. As the applicant had retired there is no scope left now for holding disciplinary enquiry for the purpose of imposing any of the prescribed penalties. Proceedings in respect of those of the applicants who have retired on superannuation have, therefore, be deemed to be dropped and the applicant is entitled to get full benefits of service as <sup>if</sup> he has been continuing in similar <sup>285</sup> post w.e.f. the date of the impugned order of removal from service to the date of his retirement. The O.A. is accordingly disposed of with no order as to costs.

*A.B. Gorthi*  
(A.B.GORTHI)

MEMBER(A)

*Ram Pal Singh*  
(RAM PAL SINGH)

VICE CHAIRMAN(J)