

(Open Court)

Central Administrative Tribunal, Allahabad Bench, Allahabad

O.A. No.330/00627/2020

Hon'ble Mrs. Justice Vijay Lakshmi, Member (J)
Hon'ble Mr.Tarun Shridhar, Member (A)

This the 5thth day of November, 2020.

Bhagwan Das Ahirwar, Chief Employee & Welfare Inspector, Wagon Repairing Workshop, North Central Railway, Jhansi, Resident of C/o Sri Vinay Srivastava, Ramjanki Puram, Hansari, Jhansi-284001.

Applicant

By Advocate: Sri Prem Shankar Kushwaha

Versus

1. Union of India through the General Manager, North Central Railway, Head Quarter Office, Subedarganj, Allahabad.
2. The Divisional Railway Manager, North Central Railway, Jhansi Division, Jhansi.
3. The Chief Workshop Manager, North Central Railway, Jhansi Division, Jhansi.
4. The Dy. Chief Personnel Officer, Wagon Repairing Workshop, North Central Railway, Jhansi.

Respondents

By Advocate: Sri Shesh Mani Mishra

ORDER

By Hon'ble Mrs. Justice Vijay Lakshmi, Member (J)

Heard learned counsel for applicant, learned counsel for respondents on admission and perused the record.

2. By means of the instant O.A., the applicant has challenged the legality of impugned order/notice dated 17.10.2020 passed by the respondents.
3. Learned counsel for respondents has raised a preliminary objection with regard to maintainability of the O.A. by submitting that vide impugned notice dated 17.10.2020, the applicant was granted a time of 10 days for submitting his explanation with regard to several charges levelled against him. However, the applicant,

instead of submitting his reply to the notice, has rushed to the Tribunal, praying to quash the notice.

4. Learned counsel for respondents has contended that it is well settled legal position, that a notice cannot be challenged in the Court of law except when the notice has been issued without jurisdiction. He prays that the O.A. being pre-mature, there being no scope of any interference by the Tribunal in issuance of notice, be dismissed at the admission stage.

5. To the contrary, learned counsel for applicant has contended that the impugned order is not a simple notice, it is a final order because there is a clear mention in it that a decision has already been taken by the department to terminate the applicant.

6. In reply, learned counsel for respondents contended that even if, it is presumed that it is a final order, the applicant has the alternative remedy to file statutory appeal against it. Therefore, O.A. is liable to be dismissed, as pre-mature also on the ground that the applicant has rushed to the Tribunal without exhausting the alternative remedy.

7. The arguments advanced by the learned counsel for respondents appear to have substance.

8. The O.A. being pre-mature is liable to be dismissed at admission stage and is accordingly dismissed.

9. No order as to costs.

(Tarun Shridhar)
Member (A)

(Justice Vijay Lakshmi)
Member (J)

HLS/-