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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI.

Registration O.A. No. 1245 of 1987

Shri Subay Ram Applicant.

Versus

Union of India Respondent.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Ms. Usha Savara, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was appointed as Khalasi by Dy. General Manager(G) in the Eviction Cell of Estate Officer, Northern Railway Baroda House, New Delhi. He has filed this application against his removal order dated 19.3.1986. The applicant fell sick w.e.f. 21.8.1984 according to him he had and submitted medical certificates from time to time. He however, received a chargesheet dated 11.1.1985, charging him with ~~allegations~~ of unauthorised absence from 21.8.1984. An enquiry officer was appointed. The applicant appeared before the enquiry officer and according to him no prosecution witness was produced and no admission or denial of the ~~allegation~~ charges was done and no examination or cross-examination of the witnesses took place and even then the enquiry officer recorded the findings against him on the basis of which, he has been removed from service.

2. The learned counsel for the applicant Sri Mainee ~~extremely~~ contended that the entire proceedings were ~~adopted~~ without jurisdiction ~~which is~~ and manifestly illegal in as much as the charge-sheet was issued by the incompetent authority and he was also removed by the incompetent authority. The order of the

removal was signed by the Secretary of the General Manager. It may be that the General Manager has passed the order on the file but the communication has been done by the Secretary. But, we are in the dark because the applicant ~~was absent~~ cannot claim relief on such a ground when himself avoiding in making statement of fact. In case that was so, he could have filed a departmental appeal and in the departmental appeal ~~was~~ he ~~had~~ the same. As a matter of fact, we find from the written statement which has been filed by the Respondents that the applicant appeared before the enquiry officer and confessed that he did not inform the administration regarding his absence from duty and he also did not like to produce any defence counsel as per statement dated 2.1.1986. He further confessed on the next date i.e. on 14.1.1986 that he did not submit any intimation to administration about his absence from duty. These admissions of the applicant have been placed on the record and ~~as~~ in these circumstances the findings were recorded against the applicant and that is why has been removed from service. Although, we are dismissing this application but with the observation that it is a case in which re-appointment can be given to the applicant and as far as possible, re-appointment should be given to the applicant by the respondents. No order as to the costs.

D. Lawrence
Member(n)

L.
Vice-Chairman

Dated: 24.12.1992

(M.U.)