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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA No.2438/90

Date of decision:2.8.93

Shri Kartar Singh ... Petitioner

vs.

Union of India through
General Manager,
Northern Railway
New Delhi & anr. ... Respondents

Coram:

THE HON'BLE MR.JUSTICE V.S.MALIMATH, CHAIRMAN
THE HON'BLE MR.JUSTICE S.K.DHAON, VICE CHAIRMAN(J)
THE HON'BLE MR.B.N.DHOUNDIYAL, MEMBER(A)

For the Petitioner ...Sh.B.S.Mainee, Counsel.

For the Respondents ...Sh. M.N.Krishnamani, counsel
with Sh.N.K.Aggarwal, counsel.

JUDGEMENT(ORAL)

(BY HON'BLE MR.JUSTICE V.S.MALIMATH, CHAIRMAN)

The petitioner Shri Kartar .Singh S/o Sh Lekh Raj Singh has challenged in this OA, the order Annexure A/1 dated 8.8.1990 by which he was dismissed from service. On the ground that important questions of law which have already been referred to a Full Bench in OA No.486 /90 have arisen for consideration in this case as well, the Division Bench before which the matter had come up earlier on 23.4.1993 was persuaded to refer this case also to the Full Bench to be heard along with OA No.486/90. That is how the matter has come up before the Full Bench today. When Shri B.S.Mainee, the learned counsel for the petitioner opened the case and it was submitted that an appeal against the impugned order had been filed on 6.9.1990, we asked the learned counsel about the result of the said appeal. We asked the same question

to the learned counsel for the respondents as well. Both of them gave the impression that the appeal is still pending. Later on, Shri Mainee, learned counsel for the petitioner submitted that he has now been able to trace the order made by the appellate authority dated 1.4.1993 and submitted the same for our perusal. The operative part of the said order reads as under:

" The above appeal was duly considered by the appellate authority viz. Sr. DME/MB who has decided to set aside the NIP of even No. dated 8/8/90 being violative of P.S.No.10037 as a copy of the report of enquiry was not furnished to you before award of the punishment. Accordingly you are required to report for duty to LF/LRJ within 3 days of its receipt. A copy of the report of the enquiry conducted by Sh.R.P.Gaba/SDI/MB is now herewith sent to you for information and representation, if any. In case no representation is received within 15 days of its receipt it will be presumed that you have nothing to represent. Please acknowledge its receipt."

This order makes it quite clear that the appeal filed by the petitioner has been allowed and the impugned order dated 8.8.90 dismissing the petitioner from service has been set aside on the ground that before the said order was passed, the petitioner was not furnished with a copy of the Inquiry Officer's report. There is a direction to furnish a copy of the same and to give an opportunity to the petitioner to make a representation. Thus it becomes clear that the impugned order does not survive. That being the position, this OA does not now survive having regard to the subsequent event in the matter of disposal of the appeal filed by the petitioner. It is, therefore, obvious that this

OA has become unnecessary or infructuous.

2. It is unfortunate that the precious time of the Full Bench is taken^{by} both sides by not being in a position to apprise the Bench about the actual stage of the appeal filed by the petitioner. This has resulted in spending considerable time of the Full Bench. We, therefore, consider it just and proper to direct both the sides to deposit cost to the Tribunal. This cost is being awarded to the State as valuable time of the Tribunal has been spent in these proceedings.

3. For the reasons stated above while dropping these proceedings as having become infructuous in view of the subsequent event, namely, disposal of the appeal, we direct the petitioner to deposit a sum of Rs.250/ as cost and the respondents a sum of Rs.500 as cost within three months from today. The cost shall be remitted to the Registrar of the Central Administrative Tribunal, Principal Bench who shall credit the said amount to the treasury of the State.

B. N. Dhoundiyal
(B.N.DHOUNDIYAL)
MEMBER(A)

S.K. Dhaon
(S.K.DHAON)
VICE CHAIRMAN(J)

V.S. Malimath
(V.S.MALIMATH)
CHAIRMAN

SNS