

13
CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH.

O.A. NO.1641/1992.

NEW DELHI THIS THE 26th DAY OF MAY, 1997.

HON'BLE SHRI JUSTICE K.M. AGARWAL, CHAIRMAN.

HON'BLE SHRI S.R. ADIGE, MEMBER (A).

Shri Ajay Kumar Singh,
S/o Shri Kamal Kant,
Ex-Substitute Loco Cleaner
under Locoforeman,
MORADABAD

.. Applicant.

(BY ADVOCATE SHRI S.K. GUPTA)

Versus

1. Union of India: through
The General Manager,
Northern Railway,
Baroda House,
NEW DELHI.
2. The Divisional Railway Manager,
Northern Railway,
Moradabad.

... Respondents.

(BY ADVOCATE SHRI O.P. KSHATRIYA)

ORDER

JUSTICE K.M. AGARWAL, CHAIRMAN.

By this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant claims reinstatement with consequential benefits and back wages etc. after quashing the impugned order of dismissal from service dated 28.1.1992 (Annexure A/1) and the Appellate order dated 6.5.1992 (Annexure A/2) affirming the said order of dismissal.

2. While working as substitute Loco Cleaner under Locoforeman, Northern Railway, Moradabad, the applicant was chargesheeted for securing employment without fulfilling the requisite eligibility qualifications. The charge was even proved by the Inquiry Officer and on that basis, the Disciplinary Authority was ~~pleased~~ to impose the impugned penalty of dismissal from service. Appeal filed by the applicant was dismissed and, therefore, this application before this Tribunal was filed for the aforesaid reliefs.

14

3. After hearing the learned counsel for the parties, we are of the view that as per the inquiry report dated 25.11.1991 (Annexure A/7), the charges framed against the applicant were not found proved and accordingly it was further found that neither he was guilty of any misconduct or of violation of Rule No.3, items 1 and 3 of Railway Servants Conduct Rules, 1966. It appears that the Disciplinary Authority did not agree with the aforesaid finding of the Inquiry Officer and proceeded to pass the impugned order of dismissal without assigning reasons as to why or on what grounds he did not agree with the finding of the Inquiry Officer. We are, therefore, of ^{the} view that the penalty imposed on the applicant by the Disciplinary Authority as affirmed by the Appellate Authority suffers from inherent invalidity and, therefore, bad in law.

4. In the said background, ordinarily, after quashing the impugned orders, we would have directed the Disciplinary Authority to pass fresh orders with reasons for his disagreement with the finding of the Inquiry Officer and before doing that, also to inform the applicant as to the reasons why the report of the Inquiry Officer was not accepted. However, in the present case, we find that though the application was filed in 1992, it could not be decided on any date before the date of this order. This unnecessary delay may be avoided by directing the respondents to reinstate the applicant in service without any back wages and without any claim for seniority on the basis of his past record. The applicant has given an undertaking that he would not claim back wages or seniority on the basis of past service if an order of reinstatement in his favour is given.

5. In the result, this application partly succeeds and it is hereby partly allowed. The impugned orders of the Disciplinary Authority and of the Appellate Authority are quashed. The respondents are directed to reinstate the applicant within a period of two months from the date of receipt of a copy of this order. The applicant shall not be entitled to any back wages for the period between the date of his dismissal and the date of reinstatement. He will also not be entitled to claim any seniority over his juniors on the basis of his past service.

Yan

15

- ✓ However, for purposes of pension, if admissible to the applicant, the period between the date of dismissal and the date of reinstatement shall be treated as period of qualifying service for the limited purpose of post retirement benefits.

No costs.

K.M.

(K.M. AGARWAL)
CHAIRMAN

S.R. Adige

(S.R. ADIGE)
Member (A)