

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

RA No.37 of 1994  
in

O.A.No.3005 of 1992

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New Delhi, this the 10<sup>th</sup> day of February, 1994.

Hon'ble Mr J.P. Sharma, Member(J)

Hon'ble Mr B.N.Dhoundiyal, Member(A)

Shri B.S.Kumar  
Ex.Assistant Superintendent(Inspection)  
Diesel Locomotive Works  
Varanasi. .. .. . Applicant.

Vs.

Union of India: through

1. The Secretary  
Ministry of Railways  
Rail Bhawan  
New Delhi.
2. The Member, Mechanical  
Railway Board  
Rail Bhawan  
New Delhi.
3. The General Manager  
Diesel Locomotive Works  
Varanasi. .... Respondents.

Order(by circulation)

(by Hon'ble Mr B.N.Dhoundiyal, Member(A))

This review petition has been filed for recalling our judgment dated 3.12.1993 passed in O.A.No.3005 of 1992. The applicant had earlier come to this Tribunal in O.A.No.902/88 and this Tribunal held that an adequate opportunity had not been given to him and the order of removal from service dated 20.5.1982 and the appellate order dated 16.9.1987 were set aside. The applicant was to file a review petition to the respondents within a period of 30 days from the date of receipt of the order bringing out all relevant factors, including as to why he did not formally intimate to them his address and whereabouts immediately after the expiry of the sanctioned leave.

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2. In our judgment dated 3.12.1993, we set aside the impugned order dated 23.10.1992 on the basis that it went much beyond the scope of review and that the appellate authority could not revive the order of removal, which had been set aside by the order of this Tribunal.

3. In the review petition, the following errors on the basis of judgment have been alleged;

- a) In para 8.3 of the O.A., directions were sought for treating the entire period from the date of removal from service till the date of superannuation, i.e. 31.8.1991 as duty with all consequential benefits. It is alleged that this relief has been lost sight of;
- b) the Tribunal's order for fresh inquiry was wrong in terms of Rule 2308 of the Indian Railway Establishment Code Vol.II whereby after retirement only the President has the right of withholding or withdrawing the pension. It is submitted that after retirement, the relationship of master and servant ceases and no fresh inquiry can be held against an ex-employee.

4. We have considered the above submissions. Though the order of removal and the order rejecting the appeal have been set aside by the earlier judgment of the Tribunal, the show-cause notice and the other stages of inquiry still survive. If this is so, this Tribunal has no right to consider the question of emoluments during the suspension period or apprehending or restraining the respondents from proceeding with the inquiry afresh at this stage. As the inquiry had been initiated against the review petitioner, when he was in service, it can be continued even after his retirement.

5. In view of this consideration, the review petition is rejected.

*B.N. Dhoundiyal*  
( B.N.Dhoundiyal )  
Member(A)

*J.P. Sharma*  
( J.P.Sharma )  
Member(J)