

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH.

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O.A. No.1095/1992

NEW DELHI, THIS THE 18TH SEPTEMBER, 1997.

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

HON'BLE MR. S.P.BISWAS, MEMBER (A).

Shri Mohd. Naim,  
s/o Shri Mohd. Atique,  
Ex-Substitute Loco Cleaner,  
under Loco Foreman, Northern Rly.,  
Moradabad.

....Applicant.

(Shri B.L.Madhok, proxy counsel for Shri B.S.Maine, Advocate)

Vs.

1. Union of India: through  
The General Manager,  
Northern Railway  
Baroda House,  
New Delhi.

2. The Divl. Rly. Manager,  
Northern Railway,  
Moradabad.

.... Respondents.

( By Shri N.K.Agarwal, counsel)

ORDER

JUSTICE K.M.AGARWAL:

This is an application under Section 19 of the Administrative Tribunals Act, 1985, making a prayer for reinstatement after quashing the impugned order of removal from service passed by the disciplinary authority and the order of the appellate authority affirming the order of removal passed by the disciplinary authority.

2. Briefly stated, the applicant was employed as substitute loco cleaner under the Loco Foreman, Northern Railway, Moradabad. Subsequently he was found to have secured the employment on the basis of fake documents and, therefore, he was subjected to departmental inquiry. The Inquiry Officer did not find the charge proved against the applicant, but disagreeing with the finding of the Inquiry Officer, the disciplinary authority came to the conclusion that the charge was proved and accordingly imposed a penalty

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of removal from service by impugned order dated 17.9.1991 (Annexure A-1). Appeal preferred by the applicant was dismissed by the impugned appellate order dated 15.1.1992 (Annexure A-2) and, therefore, the applicant has filed the present O.A. for the said reliefs.

3. After hearing the learned counsel for the parties, we are of the view that the disciplinary authority was competent to disagreeing with the finding and conclusion reached by the Inquiry Officer but before acting on its different conclusion, it was incumbent on it to inform the applicant that it was not agreeing with the finding or conclusion of the Inquiry Officer.

It was also necessary for him to record and convey his reasons to the applicant as to why he was not agreeing with the conclusion of the Inquiry Officer. The learned counsel for the respondents fairly conceded that the record did not show that such a course was adopted by the disciplinary authority before imposing the penalty. We are, therefore, of the view that the impugned orders of the disciplinary authority and the appellate authority are liable to be quashed.

4. Ordinarily, after quashing the impugned orders, we would have remanded the case to the disciplinary authority to proceed further with the disciplinary proceedings after serving the applicant with his contrary conclusion about his misconduct. But, looking to the long delay between the date of removal from service and the date of its judgment, we are of the view that it would serve the ends of justice if the respondents are directed to reinstate the applicant in service without any back wages or seniority over persons already promoted during the period of his absence from duty.

5. Accordingly this application is allowed and the impugned orders (Annexure A-1 and A-2) removing the applicant from service are hereby quashed. We further direct that the applicant shall be reinstated in service within a period of two months from the date of receipt of a copy of this order by the respondents. The applicant shall not be entitled to claim any back wages for the period between the date of his removal to the date of his reinstatement. He will also not be entitled to claim any seniority etc. because by the time this order is passed, so many persons might have

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been promoted and if the seniority of the applicant is directed to be restored, it is likely to create unnecessary problems and hardship to other employees who are not before us. However, for purposes of pension, if admissible to the applicant, the period between the date of his removal and the date of his reinstatement shall be treated as qualifying period of service. No costs.

*K.M.*  
**(K.M.AGARWAL)**  
CHAIRMAN

*S.P.*  
**(S.P.BISWAS)**  
MEMBER (A)