

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 6th day of August 2001.

ORIGINAL APPLICATION NO. 593 of 1996.

Hon'ble Mr. Justice RRK Trivedi, Vice-Chairman
Hon'ble Maj Gen KK Srivastava, Administrative Member

Tej Pal Singh, S/o Sri Bhola Singh,
R/o Village Shareefpur, Post Singhpur Sani,
Distt. Morabad.

... Applicant

C/A Sri AP Shukla

Versus

1. Union of India through General Manager,
Railway Electrification, Nawab Yusuf Road,
Allahabad.
2. General Manager, Rail Electrification,
Nawab Yusuf Road,
Allahabad.
3. Secretary to General Manager, Rail Electrification,
Nawab Yusuf Road,
Allahabad.

.... Respondents

C/Rs. Sri VK Goel

...2/-



O R D E R

Hon'ble Maj Gen KK Srivastava, Member-A.

By means of this OA, under section 19 of the Administrative Tribunals Act, 1985, the applicant Sri TP Singh, has challenged his termination/dismissal conveyed orally and has prayed that the respondents be directed to reinstate him into his previous post with *Consequential benefits.*

2. Briefly the facts as per applicant are that he was appointed as Bungalow Peon on 31.8.1989 and was regularised on 18.09.1990 in the department of Railway Electrification. The applicant proceeded on casual leave from 20.5.1991 to 24.5.1991. While on casual leave he fell ill and was ill upto 20.9.1994. He kept informing the respondents about his illness from time to time. The applicant approached his office to join duties in September 1994 alongwith fitness certificate. He was not allowed to join and was orally informed that he was no more in service. He sent representations to respondent no. 2 on 22.9.1995 and before respondent no. 3 on 22.12.1995, but he never got any reply nor has he been allowed to join his duties, giving rise to the present OA. The respondents have contested the case who have filed their counter reply.

3. Heard Shri AP Shukla learned counsel for the applicant and Sri VK Goel, learned counsel for the respondents and perused the records.

....3/-



4. Sri AP Shukla, learned counsel for the applicant has assailed the action of the respondents and submitted that the applicant was ill for a very long time and General Manager, Railway Electrification was being informed from time to time. The applicant received charge sheet for major penalties on 21.7.1991 but could not ⁱⁿ send his reply due to his serious illness. The respondents verbally terminated the services of the applicant who is a regular employee without giving due consideration to the serious illness of the applicant. This action of the respondents is illegal. Sri Shukla, the learned counsel for the applicant further submitted that the post on which the applicant was working has been abolished which should be revived and applicant reinstated.

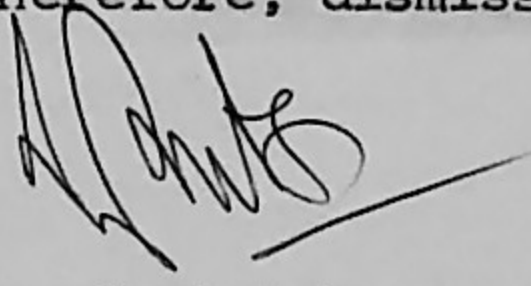
5. Sri VK Goel, the learned counsel for the respondents submitted that the petitioner was working as monthly rated class IV employee as bungalow peon. Disciplinary proceedings were initiated against him for unauthorised absence from duty with effect from 25.5.1991 and he was served with chargesheet dated 24.7.1991. The applicant in reply to the charge sheet sent a letter that he did not want to continue in Railways. This letter was treated as resignation and the petitioner's resignation was accepted by the competent authority vide ^{order dated} 3.10.1991. Therefore, the ⁱⁿ chargesheet ⁱⁿ order dated 24.7.1991 was dropped. Sri Goel also argued that the OA is time barred as it has been filed on 2.4.1996 challenging the cause of action dated 3.10.1991. He submitted that the applicant was never regularised. He was appointed as fresh face casual Bungalow peon vide

order dated 31.8.1989 (Annexure A-1) and the applicant was ⁱⁿgranted temporary status w.e.f. 27.8.1990. The applicant was medically examined on 18.9.1990 towards granting him temporary status and not for regularising him in service. Besides he neither ⁱⁿturned ~~himself~~ up for duty after expiry of leave on 25.5.1991 nor did he inform his controlling authority about his sickness.

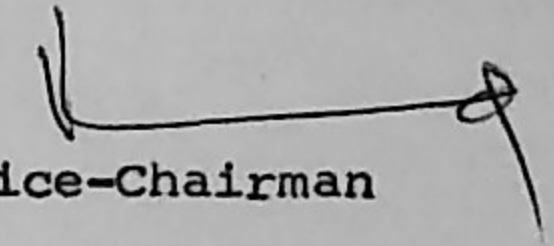
6. We have carefully considered the submissions of counsel for the parties. The applicant should have become ⁱⁿcautious ~~conscious~~ to defend his case the moment he received charge sheet dated 24.7.1991 for major penalties. It is natural for any government servant that in such circumstances, he runs from pillar to post to find out the outcome. Eventⁱⁿ if it is assumed that the applicant was so unwell that he could not personally go to defend and find out the outcome of his case, he could ⁱⁿhave ~~requested~~ his colleagueⁱⁿ to keep a track of the developments. Obviously the applicant was not interested in service in Railways anymore and therefore he took it casually and sent a letter that he was no more interested to serve in Railways. The learned counsel for the applicant has alleged that the letter produced by the respondents is forged one as the applicant has never sent any such letter. We do not agree with the argument put forth by the learned counsel for the applicant. There is nothing to doubt that the letter produced by the respondents in this connection (Annexure R-1) has been ⁱⁿwritten ~~sent~~ by the applicant and, therefore, the action taken by the respondents does not suffer from any error of law.

7. The cause of action accrued on 3.10.1991 and the applicant filed the OA only on 2.4.1996 after a lapse of three and half years. Hence, the OA is not maintainable on account of delays and laches ⁱⁿ ⁱⁿ ^{above}.

8. In view of the above observations we are unable to grant relief to the applicant as prayed for. The OA is, therefore, dismissed. No order as to costs.



Member-A



Vice-Chairman

/pc/