

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH

ALLAHABAD

DATED: THIS THE 13th DAY OF JANUARY 1997

Hon'ble Mr. S. Das Gupta AM  
CORAM : Hon'ble Mr. T. L. Verma JM  
-----

ORIGINAL APPLICATION 702 of 1996

Harvinder Singh s/o Sohan Singh,  
r/o Village and Post Phagwara,  
District Jallandher, Punjab, working  
as S.S.Fitter under Concrete Sleeper Plant,  
Northern Railway, Allahabad. - - - - - Petitioner

C/A Sri P.K. Kashyap

Versus

1. Union of India through General Manager,  
Northern Railway, Baorda House,  
New Delhi.
2. Assistant Engineer, Concrete Sleeper Plant  
Northern Railway, Subedargunj,  
Allahabad.
3. Senior Engineer, Concrete Sleeper Plant,  
Northern Railway, Subedargunj,  
Allahabad. - - - - - Respondents

C/R Sri \_\_\_\_\_

ORDER

By Hon'ble Mr. S. Das Gupta AM

This application has been filed challenging  
the appellate order dated 19.6.1995 by which penalty  
of removal from service on the applicant <sup>by</sup> ~~has~~ the Discip-  
linary authority has been upheld.

2. The applicant had earlier filed O.A. bearing no.1348/88 challenging the order of the disciplinary authority imposing penalty of removal from service and also the appellate order. After going through the rival pleadings and also hearing both the parties, the Tribunal had held that there was nothing wrong in the impugned order of the disciplinary authority imposing penalty of removal from service. However, since the appellate authority had dismissed the appeal on a technical ground and also the finding of the Tribunal was that the copy of the enquiry report was received by the applicant only much later, OA was disposed of by quashing the appellate order and remitting the matter to the appellate authority for consideration of the appeal on merit by a reasoned and speaking order. Thereafter, the appellate authority had considered the appeal and the order dated 17.6.1995 impugned in the present O.A. has been passed confirming the penalty imposed.

3. The applicant has taken ground that he was ~~removed~~ terminated from service illegally and arbitrarily without considering the facts of the case and also being deprived of proper and reasonable opportunity of hearing. Several other grounds have been taken by him for challenging the earlier order of the disciplinary authority. Present order of the appellate authority has been challenged on the ground that it has failed to consider the observation that the applicant failed to join his duty due to compelling circumstances and also that such authority has not taken a lenient view in the matter.

SL

4. <sup>as</sup> ~~Sofar~~ the order of the disciplinary authority is concerned, this matter has already been adjudicated in the earlier O.A. and the same cannot be reopened. Sofar as the appellate order is concerned, we have seen that the order which has now been passed by the appellate authority is a well reasoned and speaking order. Sofar as the quantum of penalty is concerned, the same is beyond the purview of the Tribunal as the quantum of penalty can in no way be considered <sup>Abhely</sup> to be dis-proportionate to the gravity of the charges.

5. In view of the foregoing, we find no merit in this application and <sup>if</sup> is dismissed in limine, ~~leaving the parties to bear their own costs.~~

*L. M. M.*  
Member (J)

*W. C.*  
Member (A)

SOI