

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Dated : This the 02nd day of MAY 2003.

Original Application no. 85 of 1996.

Hon'ble Maj Gen K K Srivastava, Member A  
Hon'ble Mr A K Bhatnagar, Member J

Baij Nath, S/o Sri Ram Prasad,  
at present posted as Chargeman F.I.C. (B),  
Loco Shed, Northern Railway,  
Meerut City.

... Applicant

By Adv : Sri S Dwivedi,

Versus

1. Union of India through the General Manager,  
Northern Railway, Baroda House,  
NEW DELHI.
2. The Additional Divisional Railway Manager-I,  
D.R.M. Office,  
NEW DELHI.
3. The Divisional Mechanical Engineer (Operating),  
Northern Railway,  
NEW DELHI.

... Respondents

By Adv : Sri J N Singh

ORDER

Hon'ble Maj Gen K K Srivastava, Member (A).

19  
In this OA, filed under section of A.T. Act, 1985,  
the applicant has prayed for declaring the enquiry and  
consequential orders dated 27.5.1994 and 1.9.1994 as illegal  
and to direct the respondents to give all consequential benefits  
from the date of removal from service or in alternative quash  
the order of punishment dated 1.9.1994 and direction to the  
respondents to pay arrears of salary to the applicant. The  
applicant has also prayed for 18% interest on arrears of salary.

2. The facts, in short, are that the applicant was appointed  
as Chargeman F.I.C. (B) Loco Shed, Northern Railway, Saharanpur

vide order dated 24.7.1979. He was promoted on adhoc basis to the post of F.I.C.(A). However, he was reverted by order dated 4.2.1986/27.2.1986 to the post of FIC (B). The applicant filed O.A. no. 168 of 1987 which was allowed by order of this Tribunal dated 8.4.1993 and the reversion order dated 4.2.1986/27.2.1986 was quashed. As per applicant, the authorities were against him as he was holding the post of Branch President of All India SC/ST Railway Employees Association and, therefore, the applicant was not posted as Chargeman with Accident Relief Train (ART) (MFO) and Breakdown crane. They posted his junior Shri Jaisaran Gupta and thus deprived him benefit of Rs. 10,000/- (approx) which he could have drawn as Extra TA, DA, OT and Night Allowances. He approached higher authorities and also the union leaders which annoyed ~~further~~ authorities concerned. The applicant applied for compensatory rest, weekly rest and national holidays from 17.3.1992 to 19.3.1992 with permission to leave Headquarters, which was refused malafidely by Loco Foreman. On 20.3.1992, when he returned for duty he was marked absent from 16.3.1992 to 19.3.1992 and the pay of the applicant was deducted. On 20.3.1992, the applicant was suspended and the suspension was revoked vide order dated 16.4.1992 and the applicant was allowed duty. The DME (Opg), New Delhi issued charge sheet on 23.4.1992. The applicant submitted his reply and denied all the charges levelled against him. The Enquiry Officer was appointed. The applicant requested for change of Enquiry Officer, which was refused. He made several representations in this regard to higher authorities, but of no avail. The applicant ~~have~~ made complaint to SC/ST Commission also. Without waiting the decision of SC/ST Commission the enquiry was conducted ~~ex parte~~ and the Disciplinary Authority passed the punishment order on 27.5.1994 removing the applicant from service. On 13/14.6.1994, the applicant preferred an appeal to ADRM I. The applicant was called by ADRM I for personal hearing on 9.8.1994. The applicant under compelling circumstances

created by D.M.E. (Opg) gave a letter of apology on 11.8.1994. He was informed by D.M.E (Opg) by letter dated 1.9.1994 that the applicant's appeal had been allowed by ADRM I and he was ordered to be reinstated at the initial pay of Rs. 1400/- in the grade of Rs. 1400-2300. The applicant resumed his duty on 2.9.1994. The applicant filed an appeal against the said order of appellate authority dated 1.9.1994 before higher authority on 8.10.1994 followed by reminders on 1.2.1995, 26.4.1995 and 5.6.1995, but so far his appeal has not been decided. The appeal of the applicant dated 8.10.1994 has been filed as Annexure 45. Aggrieved by the same, the applicant has filed the present OA.

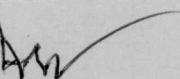
3. Learned counsel for the applicant submitted that the applicant has been subjected to lot of harassment and continuous loss of emoluments. The applicant filed appeal before CME, Baroda House, New Delhi, but the same has not been decided so far.

4. Sri J.N. Singh, Learned counsel for the respondents submitted that the appeal dated 8.10.1994 must have been decided by CME, Baroda House, New Delhi.

5. The applicant in para 4.43 has specifically averred that till date his appeal dated 8.10.1994 followed by other representations dated 1.2.1995, 26.4.1995 & 5.6.1995 has not been decided so far. The respondents have replied para 4.43 in para 29 of the Counter Affidavit. They have simply stated that after appearing before ADRM I on 9.8.1994, the applicant has represented on 11.9.1994. The respondents have not specifically denied that the applicant did not file any appeal on 8.10.1994 and also reminders, thereafter, dated 1.2.1995, 26.4.1995 and 5.6.1995. We are of the considered opinion that CME ought to have decided the appeal of the applicant dated 8.10.1994 (Ann 45).

6. In the facts and <sup>NR</sup> circumstances, we dispose of this OA with the direction to CME, Baroda House, New Delhi to decide the applicant's appeal dated 8.10.1994 by a reasoned and speaking order within a period of four months from the date of communication of this order. In order to avoid delay, the applicant is directed to supply copy of appeal dated 8.10.1994 alongwith copy of this order within a month. However, in case the appeal of the applicant dated 8.10.1994 has already been decided, the applicant may be supplied the copy of the appellate order within a month from the date of communication of this order.

7. There shall be no order as to costs.

  
Member-J  
Member-A

/pc/