

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Original Application No. 880 of 1996

Allahabad this the 20th day of February 1997

Hon'ble Dr. R.K. Saxena, Member 'Judicial'
Hon'ble Mr. D.S. Baweja, Member 'Administrative'

Aditya Prakash Srivastava S/o Late Yadunath Prasad,
Assistant Personnel Officer, N. Railway, Allahabad,
7/165/7B Azad Nagar, South Malaka, Allahabad.

Applicant.

By Advocate Sri S.C. Banerjee.

Versus

1. Union of India through Chairman, Railway Board,
Rail Bhawan, New Delhi.
2. General Manager, Northern Railway, Baroda House,
New Delhi.
3. Chief Personnel Officer, Northern Railway, Baroda
House, New Delhi.
4. Divisional Railway Manager, Northern Railway, Allahabad
Division, Allahabad.

Respondents.

Sri S.K. Jaiswal

O R D E R (Oral)

By Hon'ble Dr. R.K. Saxena, Member 'J'

The applicant - Aditya Prakash Srivastava has brought this O.A. seeking the relief that the appeal which was filed by the applicant on 28/7/94 challenging the order of punishment dated 07/7/94, be directed to be disposed of, and that the order of punishment be also quashed.

while
2. The case of the applicant in brief is that he was working as Assistant Secretary, Railway Recruitment Board Allahabad, he was charge-sheeted on the grounds that he had appointed 13 substitute Loco Cleaners in Moradabad Division ignoring their age while they were 28 years

of age on 31.10.1987. Another charge was that he appointed 7 casual labours as Sub-~~Loco~~ Cleaners while they ~~did~~^{do} not fulfil the conditions of eligibility for the said appointment. Another charge was that he had appointed 16 casual labours as Substitute Loco Cleaners whose names were not available in the Live Casual Labour Register and who ~~do~~^{did} not fulfil the conditions of eligibility of such an appointment. The last charge was that he failed to get the actual working periods of about 212 Casual Labour strictly checked and verified. The charges were denied but the inquiry proceeded and the disciplinary authority passed an order of punishment on 07.7.94 whereby the applicant was reduced to the minimum of pay scale Rs.2000-3500/- of the post of Assistant Personnel Officer. Feeling aggrieved by the said order, an appeal was preferred to the appellate authority on 28.7.94 but the said appeal was not disposed of. Hence this O.A. was filed on 22.8.96.

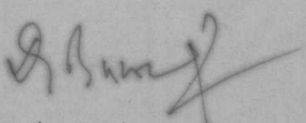
3. The notices were issued to the respondents to file counter-reply as to why the O.A. be not admitted. Accordingly the counter-reply was filed on 23.12.1996, to which the rejoinder was filed on 01.1.1997.

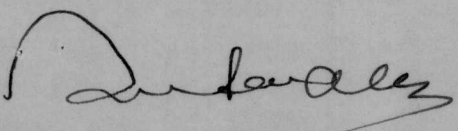
4. Today Sri S.C. Banerjee counsel for the applicant is present but none is present for the respondents.

5. The applicant has come with two reliefs which are self-contradictory. One is that the appellate authority be directed to dispose of the appeal while the other is that the Tribunal may quash the punishment ^{order} which was awarded to the applicant. We wanted to know from the learned counsel for the applicant as to which relief is

being pressed. Sri S.C. Banerjee makes a statement at bar that the first relief as regards the disposal of appeal, be deemed to be the relief sought by the applicant. He is not pressing ~~for~~[&] the other relief in which the quashment of the order of punishment by the Tribunal, was sought.

In counter-reply, this fact has been admitted that an appeal was preferred against the order of punishment. In para 16 of the counter-reply, it is also admitted that the appeal of the applicant who has now retired from service, has been submitted to the Railway Board for consultation with U.P.S.C. It indicates that the appeal has not been disposed of as yet. An O.A. should not be filed unless the alternate remedies are exhausted. It saves the time of Tribunal on one hand and gives different ~~for~~[&] ~~quash~~ to the aggrieved person for seeking redress. It is, therefore, in the interest of the aggrieved person that approaching the Tribunal, the alternate remedy must be exhausted. The reason in this case appears to be that because the appeal which was filed on 28.7.94, remained undisposed of till the date of filing of this O.A. The applicant perhaps thought it necessary to approach the Tribunal. Anyway, the prayer of the applicant is that the direction be given to the appellate authority to dispose of appeal and we also think it expedient and, therefore, the directions are given to the appellate authority to dispose of the appeal within a period of 3 months from the date of receipt of the copy of the order. The O.A. is disposed of accordingly. No order as to costs.


Member (A)


Member (J)