

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

Dated: Allahabad, the 16th day of May, 2001.

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, JM

ORIGINAL APPLICATION NO. 948 OF 1996

Sudhanshu Vachaspati Tripathi,
son of Sri Vachaspati Tripathi,
r/o village Bariyarpur Bhaskar,
Post Saidabad, District Allahabad.

..... Allahabad

(By Advocate: Sri Bashistha Tewari)

Versus

1. Union of India through the General Manager,
Central Railway, Bombay.
2. D.R.M., Central Railway,
Jabalpur.

..... Respondents

(By Advocate: G. P. Agarwal)

O_R_D_E_R (ORAL)

(By Hon'ble Mr. S. Dayal, A.M.)

This application has been filed for setting aside the chargesheet and removal order and for a direction to the respondents to dispose of Revision Petition dated 12.2.96. A further direction by way of declaration is sought for declaration of Rule 2014(2) of Railway Establishment Code Volume-II as unconstitutional and ultra vires.

Contd. .2

2. The case of the applicant is that the applicant was working as Station Porter in Madarha in U.P., when he was chargesheeted on 31.3.83 for unauthorised absence. He gave his reply on 6.12.83, as the chargesheet dated 31.3.83 is claimed to have been served upon the applicant on 30.11.83. It is claimed that the applicant had taken permission and applied for leave to the competent authority, but the competent authority appointed Sri D.P. Shankhwar, Inspector as Enquiry Officer, who enquired and submitted his report. The competent authority passed an order, by which services of the applicant had been removed, vide order dated 15.4.84. It is claimed that a copy of the order has not been served upon the applicant till date. It is also claimed that the applicant could not file appeal, because the order of removal was not served upon him. It is claimed that the unauthorised absence from duty is not a misconduct, if it is less than 5 years, as provided under Rule 2014(2) of Railway Establishment Code and that the removal order cannot be passed. It is further claimed that the Enquiry Officer has not given a copy of the Enquiry Officer's report to the applicant. As such, he could not make representation against the said enquiry report. It is claimed that the penalty is excessive and is not commensurate with the gravity of misconduct. The applicant claims to have filed Revision Petition under Rule 25 of Railway Servants (Discipline And Appeal) Rules, 1968 on 12.2.96 to the General Manager, Central Railway, Bombay, but the said Revision Petition has not been disposed of till date.

3.

3. The arguments of Sri Bashishtha Tewari for the applicant and Sri S. D. Kapoor, brief holder of Sri G. P. Agarwal for the respondents have been heard.

4. The learned counsel for the applicant has contended that under Rule 12 of Railway Servants (Discipline & Appeal) Rules, 1968, orders made by the disciplinary authority have to be communicated to the railway servant and he has to be supplied with a copy of the report of the enquiry and a copy of the findings on each article of charge. It is also contended that ^{since} the copy of the punishment order was not supplied to the applicant, as provided in Rule 12 of the aforesaid Rules, the order of removal is bad in law. He also claims that the applicant had filed a Revision Petition, although he was precluded from filing of appeal, because of non-service of the order of removal. The said Revision Application dated 12-2-96 addressed to the General Manager, Central Railway, Bombay was sent to him and was received as per the admission made in counter reply (Para 4.13 of the counter reply). Para 4.13 of the counter reply reads as under:-

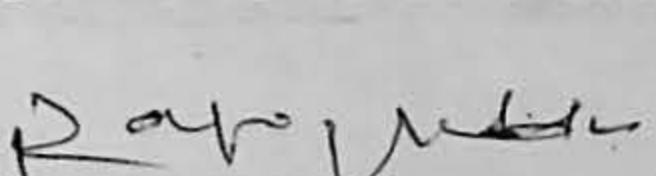
"4.13 Contents of para 4.13 is incorrect and denied. The applicant has not preferred any appeal within stipulated time. However, he submitted a revision application dated 2.2.96 addressed to G.M. C.Rly, CSTB, received in this office in April, 1997 and the same is under disposal."

Contd..4

It would appear from the reply of the respondents that the Revision Petition dated 12-2-96 has been taken up by the respondents for disposal. However, the same has not yet been disposed of. The learned counsel for the applicant contends that Rule 25 of Railway Servants (Discipline And Appeal) Rules, 1968 provides that when a Revision is undertaken by Railway Board or General Manager or an authority of that status of General Manager in any other Railway Unit or Administration, when they are higher than the appellate authority and ~~to~~ the President even ^{if} he is the appellate authority this can be done without restriction of any time limit.

5. Since the applicant admittedly has a departmental remedy available to him, we direct the General Manager, Central Railway, Bombay to dispose of the Revision filed by the applicant within a period of three months from the date of receipt of a copy of this order. The O.A. stands disposed of in terms of this order.

There shall be no order as to costs.


(RAFIQ UDDIN)
JUDICIAL MEMBER


(S. DAYAL)
MEMBER (A)

Nath/