

(20)

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 1330 OF 1997  
ALLAHABAD THIS THE 10TH DAY OF OCTOBER, 2003

HON'BLE MR. JUSTICE R.R.K. TRIVEDI, VICE-CHAIRMAN  
HON'BLE MR. D. R. TIWARI, MEMBER-A

Awadhesh Kumar Bharti,  
aged about 40 years,  
son of Late Jai Mukhan Ram,  
C/o Sri S.R. Bharti,  
Village & P.O. Phulwaria,  
Nai Basti (Near Holding Yard),  
Varanasi Cantonment-N. Railway. .... Applicant

( By Advocate Shri Anil Kumar Singh )  
Shri A. K. Sinha  
Shri P. Sinha

Versus

1. Union of India,  
through the General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.

2. Divisional Railway Manager,  
Northern Railway,  
Hazratganj, Lucknow.

3. Asstt. Personnel Officer,  
Northern Railway,  
Lucknow.

..... Respondents

( By Advocate Shri G.P. Agrawal )  
Shri A. Tripathi



ORDER

HON'BLE MR. JUSTICE R.R.K. TRIVEDI, VICE-CHAIRMAN

By this O.A. filed under section 19 of Administrative Tribunals Act 1985, applicant has challenged the order dated 01.12.1997 (Annexure A-1) by which the services of the applicant have been terminated with immediate effect saying that the Hon'ble Tribunal by a judgment dated 14.10.1997 has upheld the termination order dated 24.05.1995. The applicant in para 4.12 of his O.A. has made following averments.

"The applicant declares that he was never terminated vide order dated 24.05.1995, he was never issued any show cause notice and that he never filed any O.A. as noted in the impugned order before any court of law and that he was never a party to the said O.A.s and hence the impugned termination order is illegal and bad and also violative of Article 311 of the Constitution of India. No opportunity was ever afforded to the applicant earlier."

2. The respondents got notice of this case ~~and~~ <sup>but</sup> they have not filed any reply of the aforesaid averment made in para 4.12 of the O.A. They simply filed a preliminary objection regarding maintainability of the O.A. Learned counsel for the respondents has submitted that the applicant should have brought this fact in notice to the respondents before coming to this Tribunal. We are not satisfied with this reply on behalf of the respondents. Before passing order of termination it was obligatory on ~~the~~ <sup>them</sup> to ascertain ~~true~~ <sup>such</sup> facts, whether any order of punishment was passed against the applicant as alleged in the application or not. The impugned order dated 01.12.1997 simply says as the order has been upheld, services of the applicant have been terminated. If no order was passed against the applicant, on the basis of the judgment, termination could not be directed by the impugned order. In absence of the specific reply from the respondents, we have no option but to quash the order. However, it shall be open to respondents to



pass fresh order after giving opportunity of hearing to the applicant. The applicant shall be entitled to <sup>be</sup> reinstated on the post on which he was working with consequential benefits except backwages.

3. For the reasons stated above, this O.A. is allowed. The order dated 01.12.1997 is quashed.

4. There shall be no order as to costs.

*Dave*

Member-A

*Vice-Chairman*

/Naeelam/