

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 31st May of May 1999

Original Application No. 478 of 1998

CORAM :-

Hon'ble Mr. S.K. Agrawal, J.M.

Hon'ble Mr. G. Ramakrishnan, A.M.

Manoranjan Prasad Singh
S/o Sri (Late) Tribhuwan Prasad Singh,
R/o T-20-A, Railway Colony, Madho Singh,
Railway Station, Madho Singh, Bhadohi.

(Sri A.K. Dave advocate)

..... Applicant

Versus

1. Union of India through the General Manager, N.E. Railway, Gorakhpur.
2. Divisional Railway Manager, N.E. Railway, Varanasi.
3. Senior Divisional Commercial Manager, Varanasi.
4. Assistant Commercial Manager, (Outstanding), D.R.M. Office, N.E. Railway, Varanasi.

(Sri P. Mathur, Advocate)

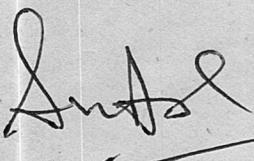
..... Respondents

ORDER (Oral)

Hon'ble Mr. S.K. Agrawal, J.M.

In this OA the prayer of the applicant is to direct the respondents to treat the applicant continuous in service without any break with consequential benefits, seniority and to direct the respondents for regularisation of the applicant from the date his juniors have been regularised.

2. The case of the applicant in brief is that a notice to terminate the services of the applicant was given by the respondents on 1-10-1991 which was withdrawn unconditionally by the order dated 29-10-1991. It is stated by the applicant that he had filed the OA No. 1032/91 for quashing the notice dated 1-10-1991



but on the statement made by the learned lawyer for the respondents Sri Prashant Mathur that the OA No.1032/1991 was dismissed as having become infructuous and thereafter the services of the applicant were terminated vide order dated 7-4-1998 issued by Assistant Commercial Manager (Outstanding), N.E.Railway, Varanasi.

3. OA and rejoinder are filed which are on record.
4. On perusal of the record it appears that vide order dated 12-5-1992 passed in OA No.1032/1991 by this Hon'ble Tribunal the OA was dismissed as infructuous without any order as to costs. The order of the Tribunal dated 12-5-92 is reproduced below: -

"No rejoinder affidavit has been filed till today. It seems that the applicant is not interested to file the same. Sri Prashant Mathur learned counsel for the respondents states that the impugned order has been withdrawn and a fresh order has been issued. Therefore, this application has become infructuous.

The application is dismissed as infructuous without any order as to costs.

Sd/- A.M. Sd/- V.C."

5. The order dated 29-10-1991 passed by the respondent Assistant Commercial Manager (Outstanding) N.E.Railway, Varanasi also makes it clear that notice dated 1-10-1991 for terminating the services of the applicant was withdrawn unconditionally. This makes it very clear that the termination of the services of the applicant vide order dated 7-4-1998 was based upon the order passed by this Tribunal in OA No.1032/1991 on 12-5-1992 which was dismissed by the Tribunal as having become infructuous and was taken to understand that this OA was dismissed. The order dated 7-4-1998 dismissing the services of the applicant appears to be illegal and not in accordance with law. Before passing the impugned order of termination no opportunity to show cause was given to the applicant and the order of termination was issued merely on the basis of the order passed in OA No.1032/1991 dated 12-5-1992.

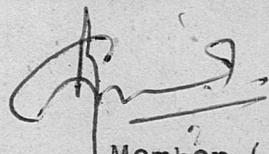
6. In view of the above, the order dated 7-4-1998 passed by the Assistant Commercial Manager (Outstanding), N.E.Railway, Varanasi dated 7-4-1998 is liable to be quashed, and the applicant is entitled to be taken back in the service forthwith.

Ans

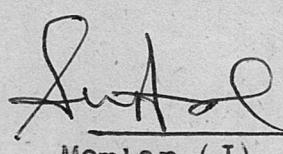
7. We, therefore, allow this OA and quash the impugned order dated 7-4-1998 passed by Assistant Commercial Manager (Outstanding), Varanasi (Annexure 1) and direct the respondents to treat the applicant continuous in service,

8. The respondents shall be at liberty to take suitable action against the applicant according to rules for his absence from duty.

9. No orders as to costs.



Member (A)



Member (J)

Dube/