

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD.

Dated: Allahabad, the 25th day of July, 2001.

Coram: Hon'ble Mr. S. Dayal, AM

Hon'ble Mr. Rafiq Uddin, JM

ORIGINAL APPLICATION NO.874 OF 2001

Uma Shanker Bajpai,  
s/o Banwari Lal Bajpai,  
OS-II (M) Juhi, Under CC/JUI.  
r/o D-43 A, Central Railway Colony,  
Govind Nagar, Kanpur.

. . . . . Applicant

By Advocate: Sri A.K. Malviya

Versus

1. Union of India through D.R.M.,  
Central Railway, Jhansi.
2. Senior Divisional Mechanical Engineer,  
Central Railway, Jhansi.
3. Enquiry Officer,  
COS/Senior DME's Office,  
Central Railway, Jhansi.

. . . . . Respondents

By Advocate: Sri K.P. Singh

ORDER (ORAL)

(By Hon'ble Mr. S. Dayal, AM)

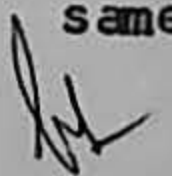
This application has been filed for setting  
aside the order dated 3.5.2001 and for direction  
to the respondents to allow the applicant the  
assistance of Sri K.K. Bajpai as defence Assistant

Contd..2

2.

to represent and conduct the case of the applicant before the departmental enquiry. The applicant has been given a chargesheet dated 9.2.2001 for having issued first privilege passes to the Railway employees against rules. The present application has been filed for quashing the order dated 3.5.2001, by which nomination of Sri K.K. Bajpai working as Guard/Juhi Northern Railway, Kanpur, is declared as not acceptable on the ground that the railway employee nominated as ARE (Defence Assistant) should be from the same Railways, in which the delinquent employee is working, whereas Sri K.K. Bajpai is working in another Railways, i.e. Northern Railway. The applicant has been given another opportunity to nominate ARE (Defence Assistant) within 15 days.

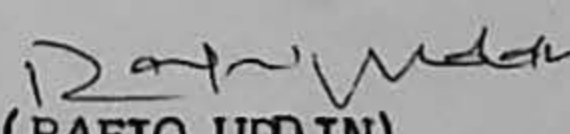
2. The learned counsel for the applicant has urged before us for acceptance of nomination of Sri K.K. Bajpai on two counts. The first of this is that the instructions of Railway Board dated 25.11.85 provide that any railway employee belonging to the same railway where the delinquent officer is working can be nominated as defence counsel. These provisions are contained in a book named 'Digest on Discipline, Appeal and Conduct Rules' edited by Sri B. S. Maini and has been placed before us by the learned counsel for the applicant. The learned counsel for the applicant urges that the same railway means the entire Railway organisation.

 Contd..3

3.

We have considered this contention of the learned counsel for the applicant. We find that such a contention is clearly unacceptable, because the same railway in such a situation where railways have various zones would mean Central Railway in the instant case and not the entire railway.

3. The learned counsel for the applicant has also invited attention to para-5 of the O.A., in which it has been mentioned that 7 cases of employees of Central Railway are being conducted by Sri K.K. Bajpai as a defence helpers of those employees and, therefore, the ~~rules~~ of principle of natural justice requires that in this case also the Respondents should be directed to permit Sri K.K. Bajpai to act as a defence helper. But, such a direction would clearly be outside the guidelines issued by the Railway Board. We are, therefore, not persuaded that the respondents should be directed to accept Sri K.K. Bajpai as a defence helper. The applicant may give another name, as required under the order dated 3.5.2001. The respondents are directed that if any name is given by the applicant within a fortnight, the Respondents shall consider the same under the rules and instructions. With this observation, the O.A. stands disposed of. No order as to costs.

  
(RAFIQ UDDIN)

JUDICIAL MEMBER

  
(S. DAYAL)

MEMBER (A)

Nath/