

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

ORIGINAL APPLICATION NUMBER 1629 OF 2004

ALLAHABAD, THIS THE 18<sup>th</sup> DAY OF JANUARY, 2005

HON'BLE MR. JUSTICE S. R. SINGH, VICE-CHAIRMAN  
HON'BLE MR. S. C. CHAUBE, MEMBER (A)

Triloki Nath Mishra son of Shri Munni Lal,  
resident of Village Bhawanipur, Post Handiamanpur,  
District-Allahabad.

....Applicant

(By Advocate : Shri S. Dwivedi)

V E R S U S

1. Union of India through the General Manager,  
North Central Railway, Allahabad.
2. The Assistant Divisional Engineer,  
North Central Railway, Mirzapur.
3. The Divisional Superintending Engineer (I),  
North Central Railway, Allahabad.

....Respondents

(By Advocate : Shri A.K. Gaur)

O R D E R

By Hon'ble Mr. Justice S.R. Singh, V.C.

Heard counsel for the parties and perused the original application.

2. The applicant herein was removed from service vide order dated 15.01.1997. Appeal preferred against the said order came to be dismissed by order dated 05.05.1998. However, both these orders came to be quashed by the Tribunal vide judgment and order dated 29.08.2003 passed in O.A. No.794 of 1998 on the ground that extreme penalty of removal from service was excessive. The disciplinary authority was

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directed by the Tribunal to pass fresh order after hearing applicant on the quantum of punishment. The disciplinary authority vide its order dated 28.11.2003 passed the order of removal from service but the appellate authority vide its order dated 08.04.2004 set aside the order dated 28.11.03 passed by the disciplinary authority reducing the applicant on the lowest pay in the grade of appointment for a period of one year. The operative part of the order passed by the appellate authority reads as under:-

- \* 1- सहायक मंडल अभियन्ता, मिजापुर का आदेश दिनांक 28-11-2003 खण्डित/निरस्त किया जाता है।
- 2- श्री त्रिलोकी नाथ मिश्रा वादी का न्यूनतम ग्रेड अर्थात् नियुक्ति के ग्रेड में न्यूनतम वेतन पर एक वर्ष के लिए और तदुपरान्त उसके बाद उसी वेतन के आगे नियमानुसार वेतन वृद्धि प्रभावी की जाय।
- 3- वादी कर्मचारी को खण्ड अभियन्ता/रेल पथ/नैनी के अधीन तत्काल प्रभाव से डियूटी प्रदान की जानी है।

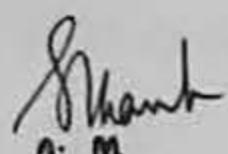
3. The applicant was then informed accordingly vide notice dated 13.04.2004. The instant O.A. seeks issuance of a direction to the respondents to provide all the benefits of service including arrears of salary and other pecuniary benefits for the period during which he was kept out of employment i.e. with effect from the date of removal from service to the date of reinstatement in service pursuant to the order dated 08.04.2004 providing interest till the date of actual payment of salary and other pecuniary benefits.

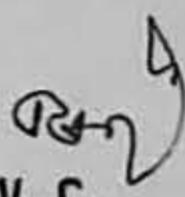
4. Having heard counsel for the parties, we are of the view that the logical consequence of an order passed by the Tribunal and the order passed by the appellate authority on 08.04.2004 is that the applicant was never removed from service. The order of deduction to the lowest pay in the grade of appointment would be operative from the date of order and therefore, the question arises as to whether the applicant is entitled to salary and emoluments for the period between 15.01.1997 i.e. the date of order of removal

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initially passed by the disciplinary authority and the order by which the applicant has been reduced to lowest pay in the same grade and there is no specific order in this regard by the appellate authority while disposing of the appeal dated 08.04.2004. We are of the view that it would meet ends of justice <sup>if</sup> that O.A. is disposed off <sup>if</sup> with direction that in case the applicant <sup>prefers a</sup> <sup>letter</sup> representation to the appellate authority, <sup>letter</sup> they shall examine the matter and pass appropriate order in accordance with law with regard to the applicant's claim for salary during the period aforesaid. The decision in this regard shall be taken within a period of 2 months from the date of receipt of a copy of this order. It is made clear that nothing herein shall be taken as expression of opinion on the merits of the claim of the applicant.

5. The O.A. is accordingly disposed off in above directions. No costs.

  
A.M.

  
V.C.

shukla/-