

(A2/1)

CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD.

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Registration O.A.No. 358 of 1986.

Jeet Singhvs. . . . D.R.M., Jhansi and
others.

Hon'ble Justice Shri S.Zaheer Hasan, Vice Chairman.

Hon'ble Shri Ajay Johri, Member (A).

(Delivered by Hon. S.Zaheer Hasan, V.C.)

This is an application under Section 19
of the Administrative Tribunals Act (XIII of 1985).

Applicant Jeet Singh was posted as Head Train Examiner at Mathura. He fell ill at Agra. Departmental inquiry was conducted at Jhansi. On 23.8.1980 he was removed from service for unauthorised absence. He filed a suit on 2.9.1980 which was decreed on 30.4.1984. First Appeal was dismissed on 6.5.1985 and, on 9.7.1985 the Second Appeal was dismissed by the Hon'ble High Court. It was held that the order of dismissal was bad in law and it was open to the authorities to make fresh inquiry according to rules after duly serving the applicant. On 18.11.1985 a charge-sheet was submitted and the applicant was suspended on the same day. On 19.11.1985 a special duty pass was issued and the applicant was asked to D.M.E's ^{NUJS} office. According to the applicant, he visited the

(A2)

office but the Officer concerned was not present. On 21.11.1985 he wrote that he was waiting for the order. On 27.11.1985 the applicant wrote a letter that the case was pending and no duty was given to him. On 27.11.1985 the following order was passed:-

"You were issued a message for reporting to D.M.E.(C&E)Central Railway, Jhansi. You received the copy of the message from Chief Wagon Supdt., Central Railway, Agra Cantt. along with a Travelling Authority on 19.11.1985, but you did not report to this office so far. You have been unauthorisedly absent. By your act of not obeying the orders given to you, you have committed insubordination and serious misconduct. I have, therefore, decided to remove you from service under Section 14(2) of the Railway Servants' Discipline and Appeal Rules 1968 (Revised).

The appeal to the above order lies to the Chief Mechanical Engineer, Central Railway, Bombay V.T. Appeal should be preferred within 45 days of service of this order."

Applicant's case is that this order is illegal, therefore, it should be set aside along with the suspension order and the charge-sheet dated 18.11.1985. The applicant retired on 30.11.1985. So, the necessary payment be made according to rules.

The applicant was removed from service on 23.8.1980 for unauthorised absence. This order was set aside by the Court with the observation that it was open to the authorities to make fresh inquiry after duly serving the applicant. The authorities were justified in framing the charge dated 18.11.1985 and in suspending the applicant. It cannot be said that there was a second trial on the same charge. // As regards the order of removal dated 27.11.1985, it is clearly bad in law. It purports to have been passed under Rule 14(2) of the Railway Servants' (Discipline & Appeal)Rules, which runs as below:-

"Where the disciplinary authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these Rules, the disciplinary authority may consider the circumstances of the case and make such order thereon as it deems fit."

In this order it is not mentioned that it was not reasonably practicable to hold an inquiry. This order was not passed in connection with any departmental inquiry, we mean to say, in connection with the charge dated 18.11.1985. This is an order ~~regarding~~ containing an independent charge having no relation with the charge dated 18.11.1985. In the impugned order it is clearly mentioned that a message was

10/11

issued to the applicant for reporting to D.M.E's Office along with travelling pass on 19.11.1985, and since the applicant did not attend, his non-attendance in that connection amounted to in-subordination resulting in serious misconduct.

So, on that score the authority concerned decided to remove him from service. There was no question of application of Rule 14(2) of the Railway Servants' (Discipline & Appeal) Rules. The impugned order was not passed in connection with any departmental inquiry or in connection with any charge framed.

The impugned order was a punishment for not visiting D.M.E's office on 19.11.1985 inspite of the fact that necessary pass was issued to the applicant.

If the authorities concerned were of opinion that this non-attendance on 19.11.1985 amounted to disobedience and in-subordination, they should have ^{been in touch} ~~framed a charge in that~~ connection, called for the explanation of the applicant, and thereafter they should have passed an order according to law. In this way the impugned order is clearly illegal and must be set aside. As already stated, there is no question of setting aside the charge sheet dated 18.11.1985. The applicant has retired on 30.11.1985.

The impugned order of removal dated 27.11.1985 is set aside and the applicant will get all the consequential benefits permissible to him under

A/S

the law. This application is disposed of accordingly
with costs on parties.

Vice Chairman.
February 11, 1987.
R.P.

B.G.R. of B.R.
Member (A).