

## Central Administrative Tribunal, Allahabad.

Registration T.A.No.185 of 1986 (C.A.No.81 of 1979)  
 Kishan Lal II ... Applicant

Vs.

Union of India & 2  
 others ... Respondents.

Hon.D.S.Misra, AM  
 Hon.G.S.Sharma, JM

(By Hon.G.S.Sharma, JM)

This transferred application is civil appeal against the judgment and decree of the III Additional Munsif Moradabad passed in suit no.342 of 1974 and has been received u/s.29 of the Administrative Tribunals Act XIII of 1985 from the Court of XI Addl. District Judge Moradabad.

2. In view of the changed circumstances, it does not appear <sup>necessary</sup> to give the detailed facts of the case here. It will suffice to say that the applicant Kishan Lal II (hereinafter referred to as the plaintiff) while posted as Shunter grade 'B' in the Loco Running Staff of the Northern Railway at Moradabad was placed under suspension w.e.f.5.6.76 on the report of Loco Foreman Moradabad for taking liquor on duty and using filthy language and disciplinary proceedings were initiated against him. The suspension order of the plaintiff was <sup>later on</sup> revoked but before the disciplinary proceedings could be concluded the suit giving rise to this appeal was filed by the plaintiff for a declaration that the entire disciplinary proceedings initiated against him are illegal and without jurisdiction and his suspension was also bad in law and he is entitled to work and function as Shunter grade 'B' and to get all his emoluments ignoring his suspension.

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He also sought a mandatory injunction to direct the defendant-respondents not to interfere with his working as Shunter 'B' and to pay him all his emoluments of that post.

3. The suit was contested on behalf of the defendants and they justified the action taken against the plaintiff and challenged the maintainability of his suit.

4. The learned trial Court had framed 10 issues in the case and held that the plaintiff had failed to make out any case for interference with the inquiry proceedings pending against him and he was not found entitled to any relief. The suit was accordingly dismissed.

5. During the pendency of the appeal filed by the plaintiff, he retired from service on reaching the age of superannuation. The Divisional Railway Manager, Moradabad vide his order dated 31.10.1988 directed the Loco Foreman Moradabad to treat the suspension period of the plaintiff w.e.f. 5.6.74 to 12.7.75 as duty. It was further directed that the plaintiff may be paid difference and other allowances, if not already paid. It was conceded by the learned counsel for the parties at the time of hearing before us that after the retirement of the plaintiff, the departmental proceedings pending against the plaintiff were dropped and he is now no more <sup>being</sup> proceeded against in the disciplinary proceedings initiated against him on the report of the Loco Foreman Moradabad.

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6. In order to bring the additional facts on record, the plaintiff has moved two applications. The first application is for leave to file an affidavit to state certain developments in the case of the plaintiff during the pendency of the appeal. The other application, moved today, is also an application to bring another affidavit on record along with the copy of the order dated 31.10.1988 of the DRM Moradabad aforesaid. The learned counsel for the parties have been heard and in our opinion, only the copy of the order dated 31.10.1988 passed by the DRM is relevant and is brought on record as additional evidence. The ~~other~~ affidavits sought to be produced by the plaintiff neither appear to be relevant nor their production in this manner is permissible under the rules and as such, the request of the plaintiff for filing the said affidavits is rejected.

7. We have very carefully considered the case of the plaintiff and in view of the changed circumstances as stated above, his appeal succeeds.

8. The appeal is accordingly allowed and the judgment and decree passed by the trial Court are hereby set aside. The plaintiff shall now be treated in continuous service treating even the period of his suspension, i.e., 5.6.74 to 12.7.75, till the date of his superannuation with all consequential benefits. Parties are directed to bear their own costs throughout.

MEMBER(J)

MEMBER(A)

Dated 8th Dec.1988  
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