

CENTRAL ADMINISTRATIVE TRIBUNAL

ALIABHABAD BENCH

....

Registration T.A. No. 782 of 1986

(O.S. 595/1985)

V.K. Sharma ... Applicant

vs

Union of India and ors... Respondents

Hon'ble Mr Justice U.C. Srivastava, V.C.

Hon'ble Mr A.B. Gorthi, A.M.

(By Hon'ble Mr Justice U.C. Srivastava, VC)

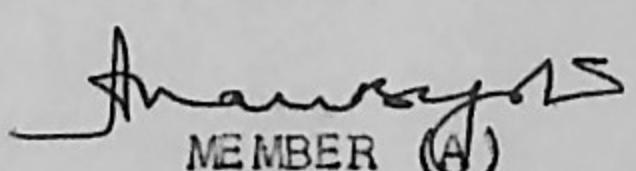
The applicant was appointed as a temporary Clerk in the Railway Administration, Jhansi on 18-7-1969. He was still temporary when he was charge sheeted on 10-8-1983 because of his unauthorised absence from 24-2-1983 to 22-7-1983. The applicant submitted his reply to the charge sheet and thereafter, inquiry proceeded. Admittedly the applicant did not attend his office and it was such a case in which no other evidence was necessary except that the applicant was to prove the reasons of his absence. But the applicant could not tender any satisfactory evidence in his behalf before the Inquiry Officer. The Inquiry Officer submitted the papers to the Disciplinary Authority who took <sup>IC</sup> view that the charges were grave enough and consequently the applicant was dismissed from service. The applicant filed Departmental Appeal against the dismissal order which was also dismissed by the Appellate Authority.

2. The contention of the applicant is that he filed a certificate from Railway Homoeopathic Doctor saying that he was under the treatment for five months for the alleged ailment of jaundice.

The applicant's case is that he was under the treatment of Railway Homoeopathy Doctor and that is why he could not attend his duties. From the Inquiry Report it is obvious that no application or medical certificate was sent by the applicant, as the applicant has himself stated that he sent information by means of Post Card. The learned counsel for the applicant contended that the disciplinary proceedings were not conducted in accordance with the Rules and there was gross violation of principles of natural justice in as much as he was denied assistance of a defence counsel and further he could not cross examine the witnesses. In this connexion he made a reference of certain cases of the nature in which prosecution was not required to tender any evidence and the applicant was put on his defensive and that is why he was examined and cross examined. So far the defence assistance is concerned, the counter affidavit is very clear that he was provided with the same. According to the Appellate Authority it was a case of private sickness and it appears that the certificate was not treated to be a certificate by an authorised Railway Doctor. It may be that the Appellate Authority was of the view that he was not hospitalised and that is why he took it as a case of private sickness, but from the Appellate Order xxx it appears that at least some circumstances which could be said to be extraneous may be related to the applicant, but some what out side the purview of the inquiry was taken into consideration and his appeal was dismissed. Taking into consideration the totality

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of the circumstances, we are of the view that there was some flaw as the certificate was given by a Railway Doctor and the applicant was absent, but, he has submitted a certificate by a Railway Doctor and no inquiry in the matter was made whether the certificate was genuine or not and ~~also~~ the Doctor was also a Railway employee, and he was not called upon to dispute the certificate. The application deserves to be allowed. Accordingly, the termination order dated 20-2-1985 is quashed and the applicant is directed to be reinstated back in service within a month from today with the stipulation that he shall not be paid any backwages from the date of dismissal up to 15-6-1991. So far this period is concerned, the same shall be treated leave without pay, but will be counted towards the pensionary benefits. There will be no order as to costs.

  
MEMBER (A)

(sns)

May 15, 1991.  
Allahabad.

  
VICE CHAIRMAN