

CENTRAL ADMINISTRATIVE TRIBUNAL, ALIABAD BENGH.

Registration T.A. No. 1210 of 1986
(O.S. No. 214 of 1983)

K.K. Bhattacharya Applicant.

Versus

Union of India through General Manager,
North Eastern Railway, Gorakhpur ... Respondent.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

This is a transferred case under Section 29 of the Administrative Tribunals, Act 1985. The applicant filed a suit in the court of Munsif, Hawali District Varanasi on 22.4.1983 praying that it may be declared that the order No. N/61/1 Part-II dated 15.12.1978 and No. N/61/1 part II dated 14.12.1979 and order No. E/KK.B./B. Man/EC dated 16.1.1980 and order No. E/N/283/II/CI/III part-4 dated 12.5.1980 whereby the plaintiff was removed from service and the offer of reappointment was withdrawn as illegal inoperative and void with the effect that the applicant continues in service as Barrereman.

2. The applicant was appointed as Barrereman in the S.T. Department of the North Eastern Railway, Varanasi. He was a trade union activist and due to his trade union activities, he was marked for victimisation and with that malafide intention, he was given a charge-sheet dated 20.9.1978, and without giving reasonable opportunity to defend himself and without giving copies

of documents requested for and illegal enquiry was held and finding was recorded against the applicant and a show cause notice was issued to the applicant to which a proper reply by the applicant dated 14.11.1978 was submitted on 15.11.1978 and without applying its mind as pre-planned', a removal order dated 15.11.1978 was issued to the applicant, and against which he filed an appeal which was also rejected thereafter he filed a revision and the reviewing authority reduced the punishment and has directed the respondent that the applicant may be given reappointment initially for one year. As this was not a proper order, the applicant represented to the General Manager for consideration and ~~not~~ to show mercy only as the applicant had been dealt with by his subordinates in a most illegal and unjust manner. He was informed that the offer of reappointment has now been withdrawn. The applicant made representation against his removal order and failing to get any relief from the department, he filed a civil suit. ⑩

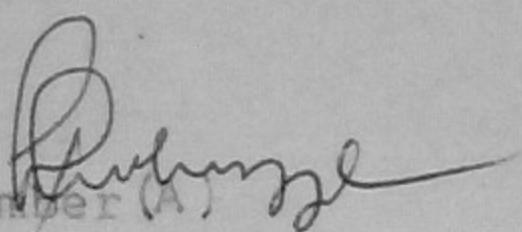
3. The respondents have stated in their counter affidavit that a chargesheet dated 20.9.1978 was issued against the applicant for his unauthorised absence and unlawful demonstration on 14.8.1978 and 18.8.1978 for which he was arrested by the police also, and was given full opportunity to defend himself before enquiry officer. He was given the copies of the Railway Documents and also allowed to inspect the other records desired by him. The applicant submitted an application on 4.11.1978 for some document on which he was suitably replied by the enquiry officer. The applicant attended the enquiry on 8.11.1978 and

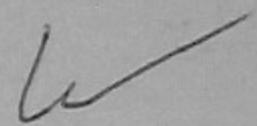
same day and always created hindrances in proceedings of the enquiry. The disciplinary authority accepted the findings thereafter, the punishment order was passed. As the appeal was also dismissed and the reviewing authority given him an offer of ^{re}appointment, the applicant did not accept it and after lapse of 3 1/2 months, the General Manager decided that the offer of reappointment given to the applicant should be withdrawn.

4. The applicant did not file any replication. The facts as indicated above, indicates that the enquiry was held and the applicant earlier participated in the enquiry, and latter on he withdrew from the enquiry and for which ^{himself} he was responsible. It appears that the enquiry officer denied the certain documents and the applicant was making the supply of the documents as the condition precedent and submitted his reply and has participated in the enquiry pointing it out that the certain documents are required. The enquiry officer, in his report, was of the view that these documents are not relevant. It could not be said that the view which has been taken by the enquiry officer was not correct. The enquiry officer, in these circumstances, had no option but to record the finding on the basis of evidence on record. As such, it can not be said that no reasonable opportunity of hearing was ~~not~~ given to the applicant and in these circumstances, the application deserves to be dismissed. However, as the reviewing authority took a lenient view ~~the~~ the reappointment may be given to the applicant, as such, let a fresh offer of re-appointment may be given to the applicant and if ~~he~~ preferred to join, he may be

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allowed to join. Let this offer for reappointment
may be given to the applicant within a period of 3 months
from the date of communication of this order. No order
as to costs.


Member (A)



Vice-Chairman

Dated : 1.9.1992

(n.u.)