

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH.

T.A. No.54 of 1987

Ehasan Ahmad Lari .....Applicant.

Versus

General Manager Northern Railway  
Baroda House, New Delhi & 2 others ....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, V.C)

This transferred application has been transferred to this Tribunal under sec.29 of the Administrative Tribunal Act.

2. The applicant filed a suit in the Court of Munsif Mirzapur praying that a declaration may be granted holding that the punishment order dated 6.5.83 is illegal, void, inoperative and without jurisdiction. Prohibitory injunction may also be issued restraining the defendants from interfering with the grade and seniority and the services of plaintiff on the basis and by enforcing the impugned order. The applicant was employed as Assistant Station Master, Allahabad Division. A charge-sheet was ordered to be served on the applicant and accordingly, the applicant was served with S.F.11 and he was required to submit his explanation on the very day i.e. 2.7.81 because of his unauthorised absence. The applicant in his reply narrating the whole fact and indicating that the whole period is covered by the certificate of private Doctor. It was thereafter that the Senior Divisional Officer passed an order putting back the applicant on duty and to avoid a transfer he has given an undertaking that he would not repeat again and the formal report on P.M.C. was called. According to the plaintiff on 23.7.81 Shri R.K.Misra, the then

D.R.M.Allahabad visited Mirzapur in an inspection and the applicant's wife , who was already divorced by the applicant as per Mohammdan Law under the instigation of some Railway staff who bore ill will and malice against the applicant met the DRM and made a complaint. The said DRM Sri R.K.Misra on his return from Mirzapur on 24.7.81 wrote a D.O. letter to applicant's wife who was a President, Mahila Samiti of Northern Railway, Allahabad to pay a cash assistance of Rs.200/- to the divorced wife and one Sri L.N.Pandey enquired into the matter although the applicant has gone to state to such extent that said L.N.Pandey directed someone to involve the applicant in some cases . This allegation was vehemently denied and has not at all been substantiated except that it was the outcome of the mind of the applicant for some reasons known to him. So far as charge-sheet-S.L.11 is concerned , the applicant was given punishment by redcing two stages below from Rs.500/- to Rs.476/- in the grade of Rs.330/- 560/- for two years effecting his seniority and future increment on restoration. The applicant filed an appeal against the same but failed to get any relief that is why he filed the suit challenging the entire enquiry proceedings to be violative of Article 311(2) of the Constitution of India and against the principle of natural justice.

3. The respondents who put.appearance before this Tribunal, filed written statement in which it has been stated that the applicant wanted leave from 20.4.81 to 26.4.81 but he absented himself from 27.4.81 for which he produced sick -certificates issued by the Private Medical Practitioner and therefore he was directed to go to the Railway Doctor who declared him fit for duty w.e.f. 1.7.81. As the

applicant had already absented from duty for more than 21 days, he was correctly directed to the Senior D.S.O. for further orders and the Senior DSO ORDERED TO ISSUE SF -11 dated 2.7.81 and the applicant submitted his explanation on the same day. It has been admitted that an inspection was made by said R.K.Misra, the then DRM and the President of Mahila Samiti wrote a letter to the applicant's wife for Rs.200/- and it is incorrect that the DRM had given an order to Senior DSO to implicate the applicant in any case. As the applicant again reported sick with DMO, Mirzapur w.e.f. 19.7.81 and later on he was discharged from sick list from 23.7.81, the order was passed by the senior DSO to issue SF 5 to the applicant on 24.7.81 and a charge-sheet was served on the applicant and the Enquiry Officer was appointed. The enquiry was conducted by the Enquiry Officer after giving full opportunity to the applicant and supplying the copies of the documents to be relied on. The charge against the applicant regarding unauthorised absent from the duty was proved and that is why the said punishment was given to him.

4. The learned counsel for the applicant ~~vehemently~~ contended that it is because of the unauthorised absence of the applicant that the <sup>action had been</sup> taken against him and further he ~~may be~~ be exonerated of the previous enquiry. Thus, the facts as stated above indicate that what has been stated by the applicant is not correct as there is no overlapping. From the material on record, it cannot be said that the applicant was deprived of reasonable opportunity of hearing. There appears no violation of Article 311(2) of the Constitution

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of India. We do not find any merit in this application which deserves to be dismissed. Accordingly, the application is dismissed. No order as to cost.

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MEMBER (A)

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VICE CHAIRMAN.

Dated: February 27, 1992

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