

(A31)

Court No.1

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration T.A. No.203 of 1987

Mahendra Bhaskar Petitioner

Versus

Union of India & Others Respondents.

Hon.S.Zaheer Hasan, V.C.

Hon. Ajay Johri, A.M.

(By Hon.S.Zaheer Hasan, V.C.)

Writ Petition No.11521 of 1982 pending
in the High Court of Judicature at Allahabad has
been received on transfer to this Tribunal under
Section 29 of the Administrative Tribunals Act XIII
of 1985.

2. The petitioner Mahendra Bhaskar is said
to have held ~~about~~ threats to Mr. A.D.Anand on
10.5.1981. On the same date S.D.Anand lodged F.I.R.
with the police. On 11.5.1981 he made a complaint
to Senior Divisional Electrical Engineer/RSO, Northern
Railway, Allahabad. On 12.5.1981 the disciplinary
authority passed the following order :-

" On 10.5.81, Shri Mohinder Bhaskar, Khalasi
under SEFO/LR/CNB alongwith two other
persons, went to the residence No.53,
Officers' Colony/TDL of Shri S.D.Anand,
AEE/RSO/TDL and threatened him with
dire consequences of kidnapping and murder.

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2. The undersigned considers that the above action of Shri Mohinder Bhaskar is such as to render his further retention in public service undesirable. The undersigned has, therefore, come to the conclusion, that Shri Bhaskar, Khalasi, under SHFO/LR/CNB is not a fit person to be retained in service.

3. Whereas it is considered that the circumstances of the case are such that it is not reasonably practicable to hold an inquiry in the manner provided under Railway Servants Discipline & Appeal Rules, 1968.

4. Now, therefore, in exercise of the powers conferred by Rule 14(II) of the Discipline & Appeal Rules, 1968, dismisses the said Shri Mohinder Bhaskar, Khalasi under SEFO/LR/CNB from service with effect from 14.5.1981.

5. Under Rule 18 of Rly. Servants Discipline & Appeal Rules, 1968, an appeal against these orders lies to DRM/ALD provided that :-

(i) the appeal is preferred within 45 days from the date on which the employee preferring the appeal is informed of the order he appeals against.

(ii) the appeal contains no disrespectful or improper language, and is submitted through the immediate superior of the applicant and the head of the office to which he belongs and through the authority against whose orders the appeal is preferred. "

The matter went in appeal which was dismissed on 12.5.82. The petitioner has challenged both the aforesaid orders in this writ petition.

3. From the aforesaid order it would appear that after reciting the facts the disciplinary authority

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held that the retention of the petitioner in service was undesirable. Thereafter it is stated that it was not reasonably practicable to hold an inquiry in the regular manner so his services were terminated.

No reasons have been assigned either in the order nor separately. So the finding that it is not reasonably practicable to hold inquiry is perverse.

The finding that it is not reasonably practicable to hold inquiry is not binding on Court which will examine the relevancy of the reason given for dispensing with the inquiry. If the reasons are irrelevant, the order will be considered as void.

In examining, the relevancy of reason, we will not sit in appeal. Reasons must be given otherwise order would be condemned as void. This legal position has been discussed in detail in the famous cases of Union of India Vs. Tulsi Ram Patel and Satyabir Versus Union of India decided by the Supreme Court. Since the finding of the disciplinary authority that it was not reasonably practicable to hold inquiry is perverse, the impugned order as well as the appellate order are quashed with costs on parties.

Member (A)

Vice Chairman

8/2/88

Dated the 11th Feb., 1988.

RKM