

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

Registration T.A No.214 of 1987.

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Chimman Lal

..... Applicant.

Versus.

Divisional Railway Manager, New Delhi & .. Respondents.
Others.

Hon'ble A.Johri, A.M.
Hon'ble G.S.Sharma, J.M.

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This Writ Petition under Article 226 of the Constitution of India filed in 1983, has been received on transfer from the High Court of Judicature, Allahabad under section-29 of the Administrative Tribunals Act 13 of 1985. The petitioner who was appointed on the North Eastern Railway on 7.11.53 as a Lamp-man at Bareilly was transferred on his own request to Kasganj as a Call Boy. When the petitioner reported there, he was assigned duties as a Running Room Attendant, which he performed till 3.3.81. Thereafter he was asked to work as a Call Boy. According to the learned counsel for the applicant, he was allowed only 4 days time to pick-up the work of a Call Boy. This period was not sufficient as it was difficult for him to know the residences and addresses of the various members of the running staff whom he was required to call for duty. When it was found after 4 days that he was not able to work as a Call Boy, he was placed under suspension. The charges framed against him were that after his transfer to Kasganj as a call boy, he did not pick-up the work properly and that he gave in writing a request to discharge the duties of the call boy. An enquiry was held and he was found guilty of the charge and an order removing

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service was passed on 26.12.81, removing him from service w.e.f. 31.12.81. The petitioner appealed against this order and was directed to see the Divisional Safety Officer, Izatnagar in that connection. The Appellate Authority after interviewing the applicant passed an order on 2.6.81 that in case, the petitioner was prepared to work as a Box-porter, his case could be considered for that post. However, the petitioner did not agree to work as a Box-porter and he did not take any other action. Thereafter the Appellate Authority rejected his appeal and upheld the order passed by the Disciplinary Authority by its order dated 16.8.82.

2. We have heard Shri.Arvind Kumar, learned counsel for the petitioner, and Shri.A.K.Gaur learned counsel for the respondents. Shri.Arvind Kumar contended that it was only for a very short period that the petitioner was given an opportunity to pick-up the work of a call-boy. He further contended that the appellate order is arbitrary and can not sustain. The learned counsel for the respondents submitted that the petitioner was transferred on his own request and he acted in an indisciplined manner by refusing to do the work which was entrusted to him. He further contended that the petitioner was offered an alternative appointment but he did not take any action to accept the same. He also submitted that even the previous conduct of the petitioner was not very satisfactory.

3. We have considered the matter and we feel that in the interest of justice and keeping in view the long span of service which the petitioner had already rendered before the order of removal was issued, the applicant's case deserves to

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considered with sympathy. We also feel that the punishment³⁴ is not commensurate with his mis-conduct is harsh and deprives him of his retirement benefits. In this view of the matter, we allow the petition in part and quash the impugned order. The impugned order is replaced by an order of compulsory retirement instead of removal. The petition is disposed of in the above terms without any order as to costs.

[Signature]
Member (J)

[Signature]
Member (A)

Dated: 11th January, 1989.

brc/