

Court No.2

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration T.A. No.960 of 1987

(W.P. No.6226 of 1982)

Lalta Prasad Petitioner

Versus

Asstt. Engineer (I) Northern Rly,
Allahabad & Another Respondents

Hon. Mr. D. K. Agrawal, J.M.

Hon. Mr. K. Dhayya, A.M.

(By Hon. Mr. D. K. Agrawal, J.M.)

Civil Misc. Writ Petition No.6226/82

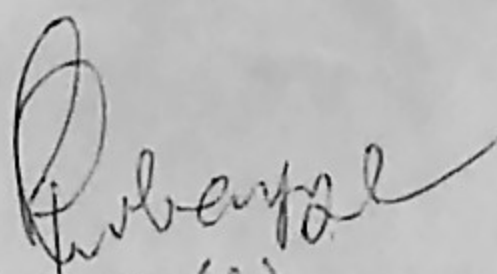
on transfer to this Tribunal under Section 29 of the Administrative Tribunals Act, 1985 was registered as Transfer Application No. indicated above.

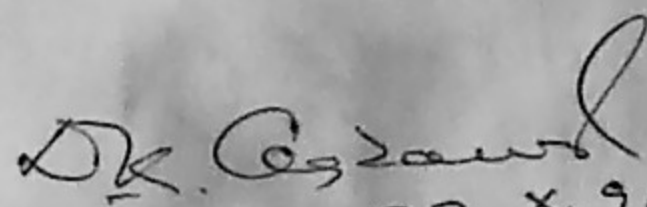
2. Briefly, the facts are that the petitioner working as Gangman in the Allahabad Division of Northern Railway was removed from service vide an order dated 6.5.81 on the alleged ground of misconduct without an enquiry purporting to act under the Second Proviso of Article 311 (2) which is in the nature of an exception that in cases catalogued in clauses (a), (b) and (c) ¹thereby the requirement of enquiry can be dispensed with. However, the law on the question is well settled. An enquiry can be dispensed with only under certain circumstances. The reasons have to be recorded as and when an enquiry becomes impracticable. The impugned order, Annexure-I does not state any reason as to why the process of enquiry was considered necessary to be dispensed with. Therefore the impugned order prima facie is bad in law. We may also observe that the applicant is enjoying the stay order since the year 1983. He is being paid salary due to him

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under the orders of the High Court. We have no hesitation to hold that the impugned order being bad in law cannot be sustained.

3. In the result, we quash the impugned order dated 6.5.81 with a direction to the competent authority to hold such enquiry as permissible under law for taking action against the alleged misconduct. The parties are left to bear their own costs.


Member (A)


Member (J) 22.X.91.

Dated the 22nd October, 1991.

RKM