

Court No. 2.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (T.A.) No. 976 of 1987  
(Writ Petition No. 5065 of 1982)

Vishwanath Ram

....

Petitioner.

Versus

Union of India & others

....

Respondents.

Hon'ble D.K. Agrawal, J.M.  
Hon'ble K. Obayya, A.M.

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

This writ petition, originally filed before the High Court of Judicature at Allahabad and received on transfer under the provisions of Section 29 of the Administrative Tribunals Act, 1985, is directed against an order dated 14.8.1975, purported to have been passed under Rule 14(2) of the Railway Servants (D & A) Rules, 1968. The impugned order mentions that the reasons have been recorded in writing. However, the reasons, so alleged to have been recorded in writing, have not been produced before us. A perusal of the appellate order dated 18.2.1976 reveals that the impugned order was passed on the ground that the petitioner remained unauthorisedly absent for a particular period. If so, we fail to understand as to what reasons could be found by the disciplinary authority to dispense with the enquiry. The only inference, in our opinion, is that no reasons were actually recorded before passing the impugned order. In the circumstances, the impugned order is ex facie bad in law. It appears to us that the authorities themselves realised it, inasmuch as the impugned order was reviewed vide an order dated 14/19.9.1977. The punishment of removal was set aside. The petitioner was given re-employment on the same post, i.e. Turner. The re-employment could not have been given unless the order of removal was set aside. Therefore, notwithstanding the fact that it has not been mentioned that the order of removal has been set aside, the impugned order is bad in law.

*D.K. Agrawal*

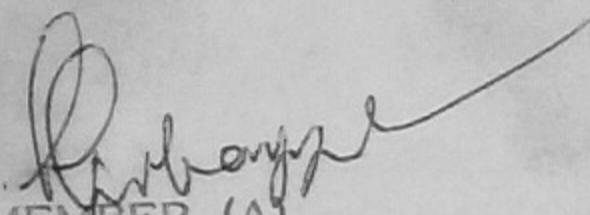
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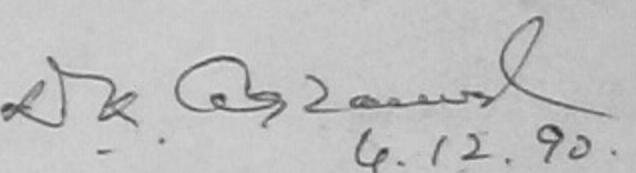
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aside, it amounts to setting aside the removal order.

2. We have heard the learned counsel for the parties and perused the record. The only question to be adjudicated by us is as to whether we should modify the order passed by the reviewing authority as to re-employment of the petitioner, i.e. whether the petitioner is entitled to be reinstated instead of being re-employed. We do not find any just ground to hold that the petitioner was fit to be re-employed but not reinstated. Once the reviewing authority arrived at a conclusion that the order of removal was bad, there was no reason for it not to reinstate the petitioner on the same post.

3. In the circumstances, we hereby quash the order of the reviewing authority giving the petitioner re-employment and hereby order that the petitioner would be deemed to be reinstated from the date of removal, i.e. 14.8.1975 with consequential benefits. The parties will bear their own costs.

  
MEMBER (A).

  
D.K. Agarwal  
6.12.90.  
MEMBER (J).

Dated: December 4, 1990.

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