

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

T A 980/87  
(W.P. 4996/82)

Sukh Lal

**Petitioner**

## versus

Union of India & others

### Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. A.B.Gorthi, Adm. Member

(Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant who was a Railway Driver, was removed from service without there being any enquiry under Rule 14(2) of the D. & A.R. Rules and it was observed that it was not reasonably practicable to hold the enquiry. The applicant was also a Member of Loco Running Staff Association which association took a decision to paralyse the train services and the applicant proceeded on strike to bring the train services paralysed resulting into causing disruption in the movement of trains and thus affecting the life of the public in general. A show cause notice dated 2.2.81 was issued to the applicant. In this notice the applicant was charged for conducting meetings with some of his associates and taking a decision in those meetings to paralyse train services and supplies essential to the life of community as a result fire of engine Nos. 4427/XP and 3011/XG was dropped on the night of 31.1.81 and 1.2.81. He was to submit his explanation by 3.2.81. The applicant did not reply to the said show cause notice. The above show cause notice could not be served upon him in

person and pasted on the notice board as the applicant was not available. Again a notice was sent to the applicant calling upon him to give his reply within 12 hours and on that very date the order was passed and the disciplinary <sup>authority</sup> recorded the reason and came to the conclusion that it was not reasonably practicable to hold enquiry provided in the rules. This order ~~was not~~ also could not be served upon the applicant and the same was pasted on notice board. The applicant filed appeal against the said order before the appellate authority and the appellate authority passed a detailed order taking all the pleas. It may be pertinent to point out at this stage that the applicant was arrested under National Security Act and it is said that the subsequent detention order was quashed by the High Court.

The appellate authority came to the conclusion that as a matter of fact the reasons were recorded. The applicant contends that very short time was given to him. The point has been contended by the appellate authority stating that so far as the Railway service is concerned a little delay may create havoc. After losing the case before the appellate authority the applicant filed writ petition before the High Court which has been transferred to this Tribunal.

The learned counsel for the applicant strenuously contended that it was not a case in which rule 14(2) of the D.A.R. could be applied and opportunity ~~is~~ not given <sup>to</sup> the applicant. The applicant was given the opportunity. He was duty bound to give the reply

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and the Memos ~~XXXX~~ could not be served upon him due to his absence. It is difficult to accept that he was not aware of the notice which was pasted on the Notice Board. He should have given the reply to the notice but he did not. In the circumstances, the decision was taken and <sup>as</sup> the working of the Railways was paralysed obviously the officer recorded that it was not practicable to hold the enquiry, which cannot be said against the law. Reference was made to the case of Union of India vs. Tulsiram Patel AIR 1985 S.C. 1416. ~~Maxbazar~~ Our attention has been invited to various observations made in that judgment. But we find no ground to interfere with the order of the disciplinary authority or appellate authority. The application is accordingly dismissed with no order as to costs.

*Manoj D*

A.M.

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V.C.

Allahabad dated 13.9.91