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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

O.A. No.325/87

Moolchand Applicant

Vs.

Union of India & Others .. Respondents

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

Hon. Mr. K. Obayya, Member (A)

(By Hon. Mr. Justice U.C. Srivastva, V.C.)

The applicant has filed this application against his removal order from service. The applicant was an employee in Central Railways, Jhansi. His son was murdered and the applicant lost his mental equilibrium after lodging the FIR report. A charge sheet dt.26-8-82 was served upon the applicant levelling charge of unauthorised absence from duty from 2-6-82 to 26-7-82. The applicant has denied the charges and departmental enquiry was conducted. On the basis of Enquiry Officer's report the disciplinary authorities passed an order removing the applicant from service. The applicant filed an appeal and the appeal was also dismissed without considering the pleas raised by the applicant by passing a very short and non-speaking order. The applicant filed a revision petition against the same and that too was dismissed. Thereafter he approached the Tribunal. According to the applicant, the Enquiry Officer's attitude throughout the proceedings was biased. The respondents had tried to justify the removal order by stating that the applicant was in the habit of remaining absent and for an indefinite period ^{he} was absent. It has been stated that in a statement the applicant has admitted that he has not followed

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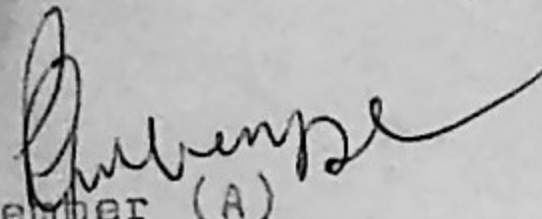
the mandatory rules of submitting the report of the Railway Doctor during the period he remained absent nor with any medical certificate of any doctor he got his leave sanctioned during this period. The statement of the applicant as recorded obviously indicate that the signature of the applicant was taken on the statement and as a person of his education and efficiency he is not supposed to know or to state that he has not followed the mandatory rules of report. The statement was in the nature of question and answer. On behalf of the applicant the proceedings have been challenged. It has also been contended that the Enquiry Officer's report was not given to the applicant to enable him to file effective representation against the same. It is against the principles of natural justice to deny the applicant reasonable opportunity to give representation against the enquiry proceedings as the Enquiry Officer's report was not given to the applicant. Therefore, this case is covered by the decision of the Supreme Court in the case of Union of India Vs. Mohmd. Ramzan Khan (A.I.R. 1991 - page 471 - S.C.). Accordingly the application of the applicant is allowed and the removal order^{dt. 11/11/82} appellate order and the revision order²⁻¹²⁻⁸² are quashed and the applicant is deemed to be in continuous service. So far as the salary etc. during the period of absence is concerned, it will be decided by the respondents. However, in this case it is clear that the applicant is not wholly responsible for the same as it appears

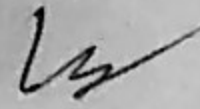
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that the applicant was interested in doing his duties. Keeping these facts in mind the question will be considered. In case it is decided by the disciplinary authorities to go ahead with the enquiry proceedings this judgment does not preclude the same and they can go ahead with the enquiry proceedings beyond the stage of Enquiry Officer's report, giving the applicant a reasonable opportunity to hear and reasonable time to file his objection against the same. In case the pleas of the applicant in the representation are considered, they are expected to pass a speaking order. No order as to cost.


Member (A)


Vice-Chairman

Dated: 24th April, 1992, Allahabad.

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