

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

Registration O.A.No.665 of 1987

Bahadur Singh

....

Applicant

Vs.

D.R.M., N.Railway & Others....

Respondents

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

Hon'ble Mr. A.B. Gorthi, Member (A)

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

The applicant who was initially appointed as Casual Labour on 6.1.78 and after being screened he was appointed against the regular post on 6.1.84 as Gatekeeper under P.W.I., N.Rly, Khurjah and was confirmed. On 12.10.85 the applicant went to the office of the P.W.I., Khurjah to get his privilege pass and he was demanded illegal gratification for issue of privilege pass to which he refused. It appears that hot words were exchanged between the applicant and the clerk of P.W.I. office and other staff of the PWI's office also joined hand and assaulted the applicant with a result he received injury and he lodged an FIR against the same. The applicant was suspended on 13.10.1985 and was removed from service on 26.10.85.

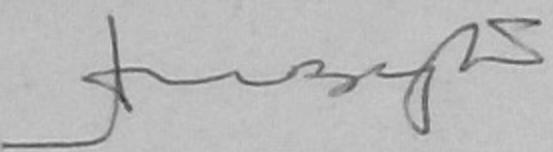
2. The applicant's grievance is that without holding any inquiry and without giving him opportunity of hearing he has been removed from service which is manifestly illegal.

3. The respondents have resisted the claim of the applicant and have stated that the applicant has got manufactured false certificate from some private Doctor, even who was not a MBBS Doctor. It was further submitted by the respondents that the report of misbehaviour, manhandling, damaging and destroying the government property was lodged with P.S. Khurja city Thana on 12.10.85 after informing the outpost at Khurja Junction. He was removed from the service with immediate effect under rule 14(ii) of Railway Servant (Disciplinary and Appeal) Rules. The appeal of the applicant

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has also been dismissed by the appellate authority and he has been communicated the same. The records as has been produced before us indicate that as to what are the grounds under which/power under rule 14(ii) has been exercised. According to the respondents the enquiry was impracticable and that is why against the applicant it was done. The respondents have produced before us the statements of the witnesses who were at the spot and who stated that the police is of no help and they have to come to office every day and no question should be asked from them. One of the witnesses stated that he was outsider and belongs to other station and it is not possible for him to make any statement against the applicant. The Inquiry Officer submitted his report that the applicant was/called but he did not turn up and he did not cooperate with the inquiry and that the Inquiry Officers and the witnesses are under terror and fearing for life. The witnesses are not prepared to come forward and state the facts for fear of life and property and they are under the grip of terror created by the applicant and his activities, and he being a local resident of uncertified fit character his character has not been certified. The authority was convinced that the regular departmental enquiry cannot be judtifiably held and it is not practicable to hold the enquiry under the extent rules. If it was not possible at that stage the appellate authority could have passed an order for holding the enquiry. In the case of Chief Security Officer and others Vs. Singasan Rabi Das, 1991 Supreme Court Cases(L&S) 415, where the inquiry was dispensed with on the ground that it was not reasonable practicable to hold the same. The Delinquent employee was the member of R.P.F. and was removed from service without inquiry and the reasons it was considered that not feasible or desirable to procure witnesses of the security/other railway employees since that would expose the witnesses and make them ineffective in the future, and that if these witnesses were asked to appear at a confronted inquiry

they were likely to suffer personal humiliation and insults and even their family members might become targets of act of violence. It was held that these reasons were insufficient and there was total absence of sufficient material or good grounds for dispensing with the enquiry. In this case the same situation arises and consequently this application deserves to be allowed ~~in~~ part in as much as the removal order is quashed and the suspension order is maintained and the respondents are directed to hold an inquiry against the applicant in accordance with law. In case the applicant is found guilty then they may take action against him in accordance with law. It will ^{be} open for the respondents to hold an inquiry against the applicant in accordance with law and it will ^{be} for them to place him under suspension or to pass any other order in accordance with law in this behalf. Let an inquiry be held as early as possible. With these observations the application is allowed. There will be no order as to costs.



Member (A)



Vice-Chairman.

14th January, 1992, Alld.

(sph)