

(4) (AY)

CENTRAL ADMINISTRATIVE TRIBUNAL: ALLAHABAD BENCH

Registration No. OA 1091 of 1987

Saud Hasan

: Applicant

Vs

Union of India through Ministry of
Railway for Northern Railway,
Baroda House, New Delhi & 3 others

: Respondents

Present

Hon'ble Shri GS Sharma, Judicial Member

and

Hon'ble Shri NV Krishnan, Administrative Member

O R D E R

Shri NV Krishnan, Administrative Member

This is an application in respect of a grievance relating to discharge from service. The brief facts are as follows:

1.1 The applicant was selected as a Guard in the Grade C by the Railway Service Commission and was sent for training at the Zonal Training School, Chandausi from 17.8.83 to 29.9.83.

After completion of training, ^{he} was asked to report to the Lucknow Division of the Northern Railway from where he was posted as a probationary Guard at Pratabgarh.

1.2 The result of the training, announced on 5th October, 1983, disclosed that the applicant had failed in Transportation subject.

Hence, he was required to appear in the Supplementary Examination ^{and} ~~to~~ qualify in the said subject within one year, according to the prescribed procedure.

1.3 It is stated by the respondents that the applicant remained sick from 14.1.84 to 28.5.84 and again from 26.7.84 to 13.9.84.

The applicant was informed that the next Supplementary Examination was to be held on 5th December, 84 at Chandausi and he was asked to appear in that examination.

1.4 The respondents allege that the applicant did not avail himself of this opportunity. They have further asserted that it is essential that a Guard should be fully qualified for his job which concerns the safety of passengers. As the applicant had not passed the prescribed examination within time, there was no option, but to discharge him from service. Accordingly, an order to that effect was passed on 29.12.84 with an advise to get in touch the ~~xxxxxx~~ ^{Head} ~~xxxxxx~~ ^{Quarters} ~~xxxxxx~~, Northern Railway, New Delhi. (It should be added here that though the applicant has stated that copies of his representation dated 15.7.86 to the General Manager, Northern Railway and the order of discharge have been ^hexibited at Annexure 7 & 8 respectively, they are, infact, filed as Annexure 8 & 7 respectively. As the photo copy of the discharge letter is not legible, a clear typed copy has been filed at page 21 of the paper book though, the date of the notice is wrongly mentioned as 17th December, 1983 instead of 29th December, 1984.) The applicant has also prayed that the Respondents 2 to 4 be given a direction to allow him an opportunity to complete his training at the Training School, Chandausi.

2 Before orders could be passed on the admissibility of the application, the pleadings got completed and therefore, the case was heard finally on 4.7.89.

3 As the impugned order is dated 17.12.84, prima facie, this application is barred by limitation. The applicant has, however, stated that the impugned order was served on him on 7th February, 85

(6) (S)

and on 28.2.85, he sent a letter requesting that he be allowed to complete the training at Chandausi, but no reply was received. He claims to have made further representations on 9.10.85, 28.10.85 and 15.7.86 addressed to the General Manager, Northern Railway. A copy of the representation dated 15.7.86 is filed at Annexure-8. He claims that with reference to this last representation, the application filed by him on 16.11.87 is within time. Respondents have not opposed admission on this ground.

4 We note that the Annexure-7 order has directed the applicant to get in touch with the Northern Railway Headquarters. That contact was, perhaps, established by sending the representation dated 15.7.86. We are, therefore, inclined to treat his representation dated 15.7.86 as the relevant document for reckoning limitation. So done, the application is within time. It is, therefore, admitted and we proceed to pass our orders.

5 We have heard the arguments ^{of} both the counsel and perused the records. In regard to ^{his} discharge, it is seen that the applicant did not, admittedly, succeed in the prescribed examination at the end of the training course. He had to appear in the Supplementary Examination and qualify in this subject within one year. It would appear that because of his illness he got only one opportunity and according to the Respondents, he did not avail himself of this opportunity. As acquiring the full prescribed qualifications was essential, the Respondents cannot be faulted for discharging him from service. We are, therefore, of the view that the impugned order discharging the applicant from service is well founded and cannot be assailed.

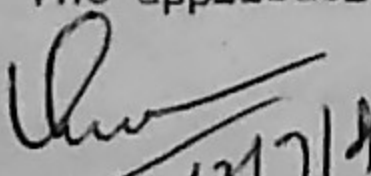
(9) (X)

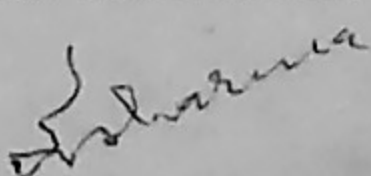
6 The respondents have claimed in the counter that the representations alleged to have been made on 9.10.85, 28.10.85 and 15.7.86 by the applicant are not on their record. The applicant has, in his rejoinder (copy of which was served on the Respondent's counsel on 23.5.89) alleged that the representation dated 15.7.86 was duly received in the Head Office of the Northern Railway, New Delhi. In support thereof, a photo-copy of that representation bearing, what appears to be, the rubber stamp of the Northern Railway dated 15th July, 1986 has been produced as Annexure-II of the rejoinder. Counsel for the Respondents had no comment on this averment.

7 The applicant has thus proved that his representation dated 15.7.86 addressed to the General Manager, Northern Railway, New Delhi (Annexure-VIII) was submitted in his office. As respondents have even denied its receipt, it is obvious it has not been disposed of. Respondents have also admitted that even at the time of discharging the applicant, he was directed to approach the Headquarter, presumably to permit him to take the next examination so as to complete the course of training. Considering these circumstances we are of the view that the second relief sought by him has some force.

8 Applicant has impleaded as the fourth respondent "The Personnel Branch (Recruitment) Officer (Dealing with Guards), Baroda House, New Delhi" who is a good proxy for the General Manager, Northern Railway. We are of the view that the interests of justice will be served if a direction is issued to the General Manager, Northern Railway, New Delhi to dispose of the applicant's representation dated 15.7.86 within 3 months from the date of receipt of this order. It is accordingly ordered.

9 The application is disposed of with these directions.


(NV Krishnan)
Administrative Member


(GS Sharma)
Judicial Member