

OPEN COURT

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
ADDITIONAL BENCH AT ALLAHABAD

Allahabad : Dated this 24th May, 1996

Original Application No.639 of 1989

Distt : Fatehpur

CORAM:-

Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. T.L. Verma, J.M.

Balbeer Singh Son of Sri Chandra Bhusan Singh

R/o Village & Post-Beragadhiwa,

District-Fatehpur U.P.

(By Sri A.K. Srivastava, Advocate)

. Applicant

Versus

1. Union of India, through its Secretary
Ministry of Railway, New Delhi.

2. General Manager, Northern Railway, Baroda
House, New Delhi.

3. Divisional Railway Manager, Northern
Railway, Allahabad.

(By Sri D.C. Saxena, Advocate)

. Respondents

O R D E R (O_r_a_l_)

By Hon'ble Mr. S. Das Gupta, A.M.

This application was filed under Section 19 of the Administrative Tribunals Act, 1996, challenging the order dated 6-7-1984, by which the applicant was removed from service, the order dated ~~30-9~~-30-9-1985, by which the applicant's appeal was rejected and the order dated 13-2-1987 by which his representation was rejected. He has sought quashing of these orders and has prayed that he be reinstated with full back wages with effect from the date of his removal from service, ^{with} ~~his~~ all service benefits.

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2. The applicant's case is that while he was posted at Kanpur Railway Station, he went on leave on 4-2-1982 and from time to time he had submitted leave extension application to the appropriate authorities but he had not received any information regarding rejection of his leave application. On 5-9-1983, the applicant came back to join his duty and he worked upto 15-10-1983, on which date he received information that the condition of his wife was serious and he rushed to his native village where his wife subsequently died. Thereafter the applicant rejoined his duty in July, 1984. On 8-9-1984, he received the impugned order dated 6-7-1984 by which penalty of removal from service was imposed on him alongwith a copy of the inquiry report. He submitted an appeal which was rejected by the impugned order dated 13-9-1985 and his subsequent review petition dated 7-6-85 was rejected by the impugned order dated 13-2-1987. This led the applicant to file the present application for the reliefs aforementioned.

3. The applicant has challenged the order of ~~original~~^{penalty} appeal on the ground that neither any charge sheet was served on him nor any inquiry was held into the charges. He has also alleged that the finding of the Inquiry Officer ~~and~~^{was} not based on evidence on record and the same is perverse. Another plea taken by him is that the order of removal is ^a non-speaking order. It has also been stated that no show cause notice was issued to him before imposition of penalty, while another plea taken by him is that the penalty imposed is disproportionate to the gravity of the charge. The appellate order has been challenged on the ground that the appellate authority has not followed the instructions contained in Rule 22(2) of the Railway Servants(Discipline and Appeal) Rules. A similar plea has been taken against the order of the revisionary authority.

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4. The respondents have filed a counter affidavit in which it has been stated that the applicant was served with a charge memo for unauthorised absence for a long period and the charge^{memo} was also acknowledged by the applicant. It has also been stated that despite efforts made by the Inquiry Officer, the applicant did not attend the inquiry. As such, the Inquiry Officer had to proceed ex parte. He, however, examined witnesses and based on evidence on record, came to the conclusion that the charge of unauthorised absence was established against the applicant. The disciplinary authority agreed with the findings of the Inquiry Officer and thereafter issued the impugned order dated 6-7-1984 removing the applicant from service. It has also been stated that the appellate authority had carefully considered the memo of appeal and thereafter rejected the same. As regards the revision petition, it has been stated that the same was received on 8-5-1986 i.e. after about 8 months from the date of the appellate order. The applicant was called for personal hearing but he turned up on 7-10-1986 i.e. after more than a year. The revision application was rejected as time barred.

5. The applicant has not filed any rejoinder affidavit. When the case was called out, none appeared for the applicant. We heard learned counsel for the respondents and carefully perused the record.

6. The applicant, admittedly, was absent from duty for a fairly long time. According to him, he went on leave initially and then went on submitting applications for extension of leave. There is nothing on record to prove that he has been sending such application. This is specifically denied by the respondents. The applicant was served with a charge memo as specifically stated by the respondents and which has not been rebutted by

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the applicant. The Inquiry Officer did make attempts to communicate to the applicant before initiating proceeding but having failed to do so, he proceeded exparte. We find nothing wrong in the procedure adopted by the Inquiry Officer. We have also seen report of the Inquiry Officer. We do not find any perversity in the findings. The applicant was given a copy of the Inquiry Report under the existing rules. No show cause notice is required to be given before the penalty is imposed. The disciplinary authority agreed with the finding of the Inquiry Officer and imposed the penalty. Since he had agreed with the finding, it was not necessary to record detailed reasons ^{for} coming to the conclusion that the applicant was guilty of the charge. We, therefore, find no infirmity in the procedure adopted for imposing penalty on the applicant.

7. Coming, however, to the appellate order, we find that the same is, no doubt very laconic and non-speaking. It does not conform to the statutory ^{Requirements} ~~rights~~ ~~xxxxxxx~~ imposed on the statutory authority under Rule 22(2) of the DAR. Normally, we would have remanded this matter to the disciplinary authority for consideration. However, we have noticed that the application was filed in July, 1989, whereas the order of the revisionary authority was passed on 13-2-1987. The respondents have taken the plea that application ^{is} time barred. No explanation has been offered by the applicant ^{as to why} the application was filed after such an inordinate delay. In view of this, we do not consider it ^{appropriate} at this stage to remand the matter to the disciplinary authority. The application is dismissed primarily on the ground that it is barred by limitation and also that there is no infirmity in the order of the disciplinary authority. The parties shall bear their own costs.

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Member (J)

WE
Member (A)