

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH,
ALLAHABAD.

Original Application No.1242/92.

To-day, this the 14th Day of Dec., 1994.

HON'BLE MR. JUSTICE B.C. SAKSENA, VICE-CHAIRMAN.
HON'BLE MR. K. MUTHUKUMAR, MEMBER (ADMINISTRATIVE).

Mohd. Khalil,
Son of Late Mohd. Sabir,
(Diesel Asstt. N.R., Loco-shed,
Chunar), R/o. 10 Tej Bahadur
Sapru Road, Civil Lines,
Allahabad.

::::: Applicant.

BY ADVOCATE SHRI A.S. DIVAKER

VERSUS

1. Union of India, through
the Secretary, Ministry of
RAILWAYS, Rail Bhawan,
New Delhi.
2. Divisional Mechanical
Engineer, Northern Rly.,
Allahabad.
3. Senior Divisional Mech.
Engineer, Northern Rly.
Allahabad.
4. Additional Divisional
Manager, N.Rly., Allahabad. ::::: Respondents.

BY ADVOCATE SHRI SATIS CHATURVEDI

O R D E R (Oral).

JUSTICE B.C. SAKSENA, VICE-CHAIRMAN.

We have heard the learned counsel for the
parties. The applicant was served with two Charge-
Sheets copies of which are annexed as Annexures A-1 &
A-2 to the O.A. By the said 2 Charge-Sheets

allegations of failure to maintain devotion to duty in respect of 2 separate periods was indicated, from 26-7-84 to 19-9-84 and from 23-11-84 to 9-3-86. As far as the first period is concerned, the applicant has submitted application copy of which is annexed as Annexure A-3. In his application it has been indicated that he was absent from 23-11-83 due to illness of his wife who suddenly suffered from an attack of paralysis and she was not able to move. The further explanation was that he was to attend to his wife and since there was no male member in the family he was also to look after his family. The applicant, therefore, requested that his case may be sympathetically considered and he may be permitted to join his duty. In respect of the second period the reason for his absence was the illness of his mother. An Inquiry Officer was appointed. He submitted his report, and held that both the charges were proved. The disciplinary authority thereafter passed an order for removal of the applicant's service. The applicant preferred an appeal and the appellate authority modified the punishment to one of compulsory retirement.

2. Counter Affidavit to the O.A. was filed by the respondents to which the applicant filed rejoinder affidavit.

3. We have ^{heard} / Shri A.S.Divaker, learned counsel for the applicant. He submits that in the charge-sheet no documents were there in support of the charges.


He further submitted that in para 14 of the C.A. it has been indicated that the relevant records were available and they have been taken into consideration in reaching the finding by the Enquiry Officer. In para 14 of the C.A. it has been stated that all the evidence including the report of the Loco-foreman was available and that has been considered though a second averment has been made in the written statement that there were no evidence, a perusal of the Enquiry Officer's report reveals that he did not appear to have relied completely on the report of the ~~loco-foreman~~ loco-foreman. On the contrary the findings were based on the answers given by the applicant to the questions put to him during his enquiry. In the light of this fact, it has been submitted by the learned counsel for the applicant that the burden of proving the same has been thrown upon the applicant when the Railway authorities have not shown any evidence to prove the charges.

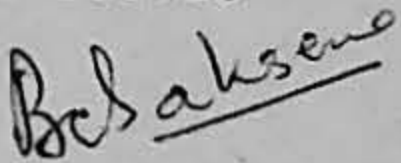
4. We are satisfied that technically there is no merit in the submissions made by the learned counsel for the applicant. In the light of the facts and circumstances attending the charges and ^{on the basis of} ~~the~~ report submitted by the Enquiry Officer we do not feel inclined to interfere with the impugned orders. The applicant, as noted herein above, in his explanation to the chargesheet, had conceded that he had remained absent. The reasons given by him in the earlier 2 months in 1984 was illness of his mother. He neither gave any leave application nor sought for

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grant of leave. After two months when he returned for duty he filed a Private Medical Certificate. The other circumstances which compel us not to interfere with the impugned order is that immediately after two months the applicant again remained absent for almost two years. On this occasion the allegation against him was that he did not seek permission of the Competent Authority to leave the Station. The applicant, before the Enquiry Officer, had accepted ^{the fact} that he had not sought for permission to leave the Head Quarters.

5. In the light of the material on record we are satisfied that no interference with the impugned order is called for. The O.A. is accordingly dismissed. No order as to costs.


MEMBER (ADMN.)


VICE-CHAIRMAN.

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