

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 14th day of November, 2000

Original Application No.1267 of 1992

COAM :-

Hon'ble Mr. Rafiuddin, J.M.

Hon'ble Mr. S. Biswas, A.M.

Lakhan Lal S/o Late Sri Narain Prasad,  
s/o 519/11, Naiya Bazar, Baruna Bridge,  
Varanasi.

(Sri M.W. Siddique, Advocate)

..... Applicant

1. Union of India through Ministry of  
Communication (Department of Posts),  
Dak Bhawan, Sansad Marg,  
New Delhi.

2. Director General Post (Railway),  
New Delhi.

3. Post Master General, Allahabad.

4. Senior Superintendent of Post Offices (Railway Mail),  
'A' Division, Allahabad.

(Sri Satish Chaturvedi, Advocate)

..... Respondents

O R D E R (O\_r\_a\_1)

By Hon'ble Mr. Rafiuddin, J.M.

The applicant while discharging his duties as  
Mail Man in the Office of Senior Superintendent of  
Post Offices (Railway Mail), Allahabad (respondent no.4)  
was proceeded under the provisions of Rule 14 CCS(CCA) Rules,  
1965 (hereinafter referred to as the Rules, 1965) on the  
imputation of misconduct and misbehaviour. It was alleged  
that the applicant remained absent from duty from  
27-12-1976 to 8-5-1980 and again from 15-5-1980 onwards  
unauthorisedly without giving any type of leave sanction

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in violation of Rule 62 of the Post and Telegraph Vol.III  
and Rule 3(i), (ii) & (iii) of CCS (Conduct)

rule, 1965. The enquiry officer after conducting enquiry  
submitted his report and the disciplinary authority of  
the respondent, namely, respondent no.4 accepted the report  
of the enquiry officer and passed removal order of the  
respondent on 30-6-1988. The applicant filed an appeal  
against the aforesaid order of removal dated 30-6-1988.  
The disciplinary authority set aside the punishment order  
concerning the case for de novo proceeding and a fresh  
charge sheet was issued to the applicant under Rule 14  
of the Rules of 1965 on 15-5-1990. Thereafter the  
disciplinary order dated 18-6-1990 was passed whereby the  
respondent was ordered to be compulsorily retired from  
service. The applicant preferred the appeal against the  
order dated 18-6-1990 which was received on 07-9-1991  
in the office of Director General Post(Railway), (respondent  
no.4) which was rejected vide order dated 30-3-1991.  
The applicant also preferred another petition to the  
Higher Postal Services Board, which has also been rejected.  
The applicant has filed this OA for quashing the aforesaid  
orders dated 30-6-1988, 26-10-1988, 30-6-1990 and 29-4-1992.

2. The main grounds for challenging the validity  
of the aforesaid orders are that the service book of the  
respondent was not properly maintained by the department,  
and the burden has been shifted to the applicant. The  
medical certificate submitted by the applicant was not  
received. This shows that the service record of the  
respondent has been destroyed. Thereafter proceedings  
were never started. The time of eight years has been  
disregarded from the date charge sheet issued on  
26-10-1988. It has also been argued that the year taken  
from the completion of enquiry and decision should on no  
account be the basis to count absence of the applicant.  
Therefore, the order passed by the respondents was

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- 2 -

without the benefit of evidence or counsel. The appeal has been referred to this Bureau. The applicant was also not provided a copy of the relevant documents and as such the proceeding and order is illegal and arbitrary.

2. We have been advised that the parties and removal are correct and legal.

3. We do submit that the grounds mentioned by the applicant that the only allegation regarding nonqualification pointed out by the applicant in conducting the hearing is that some relevant documents were given to the small unit. We do, however, note that no specific documents relevant to the charges have been mentioned by the applicant and the ground is obviously vague. We do allow sufficient to consider here that the charge against the applicant was levied on the basis of pay bills, pay bills and service book. If a formal file of the applicant is available, we do not find that would take the finding difficult because the the service book and pay bills of the applicant are available to show that he remained absent for such a long time without any proper authority. Since there is no allegation regarding the nonqualification, having been committed by the Captain, while conducting the departmental enquiry against the applicant, we do not find any justification or interference with the findings reported by the commanding officer in accordance with the pertinent order. We also consider that proper departmental enquiry has been conducted against the applicant for his long unauthorized absence from duty and we do so direct to any unit and accordingly the note is discontinued with no order as to removal.

Subd