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Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1746 of 1993

Allahabad this the 25th day of February, 2002

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Mr.C.S. Chadha, Member (A)

Lal Singh, S/o Sri Shri Pal, aged about 33 years,
resident of Vill : Gohattipur, Post - Manapur, Distt.
Fatehpur.

Applicant

By Advocate Shri S.S. Sharma

Versus

1. Union of India owned and represented by and notice to be served upon the Chief Administrative Officer(Construction), Northern Railway, Kashmere Gate, Delhi-6.
2. The Chief Engineer(Construction), Northern Railway, Kashmere Gate, Delhi-6. (APPELLATE AUTHORITY).
3. The Dy.Chief Engineer/Construction, Northern Railway, Kanpur(Punishing Authority).

Respondents

By Advocate Shri Prashant Mathur

O R D E R (Oral)

By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

The applicant-Lal Singh by this application under Section 19 of the Administrative Tribunals Act, 1985 has prayed to quash the order dated 15.05.1993 (annexure-1) to this O.A., by which the applicant was

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intimated that on account of his absence from service commencing from 04.05.1990, his services have been terminated and his name has been strucked from the roll kept by the P.W.I. D-II, Kanpur.
~~From the order it appears that the applicant is~~
not willing to serve the Railways any more. Learned counsel for the applicant has submitted that this order has been passed without opportunity of hearing to the applicant. It is also submitted that from time to time he was intimating about his difficulties on account of which he could not appear to join the duties, but the order has been passed in violation of the principle of natural justice.

2. Shri Prashant Mathur on the other hand submitted that the applicant got the engagement as casual labour on the basis of forged papers for which the memo of charge dated 12.03.91/20.03.93 was served on him. Such proceedings were initiated against the group of employees who had secured appointment fraudulently in connivance with Ajit Singh, A.P.O. (Const.) without having even worked prior to 1981 and without specific approval of the G.M. It has been submitted that the services of all such employees have been terminated and the order has been upheld by this Tribunal and also by Hon'ble High Court. The order against the applicant could not be passed in view of impugned order dated 15.05.1993.

3. After having heard the counsel for the parties, we are of the view that in the present case

the impugned order dated 15.05.1993 was passed against the applicant without giving him opportunity of hearing. There is no dispute about the legal position that even for removing on the ground of long absence from the duty, opportunity is required to be given before passing the order of termination. The applicant claims that he had already acquired temporary status. Though we are not expressing any opinion on this, if he had acquired temporary status he was legally entitled for a show-cause notice and opportunity of hearing before passing the impugned order. In the circumstances, in our opinion, the applicant is entitled for limited relief so that he may contest his claim before the respondents. It is not disputed that the applicant was not in service when the order was passed in the year 1993. He was absenting from duty since 1990. Therefore, he is not entitled for the reinstatement. Shri Sharma, however, points out that the applicant cannot afford to contest the proceedings unless he ~~has~~ given facility to travel and provided railway passes. We direct the respondents that they shall provide the applicant passes ^{that} ~~so as~~ he may attend the inquiry on the date fixed. As the matter is very old, we further direct that the matter shall be concluded within a period of six months from the date of copy of this order is filed.

4. For the reasons stated above, the O.A. is allowed in part. The order dated 15.05.1993 is quashed. The applicant shall be served with a show-

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cause notice within 2 weeks from the date of copy of the order is filed before the competent authority namely respondent no.3. The reply of show-cause notice shall be given within 2 weeks thereafter. The Inquiry Officer then concluded the proceedings within the time allowed by this order. We further make it clear that it shall be open to the respondents to initiate proceedings simultaneously on the basis of memo of charge dated 12.03.91/20.03.93. There will be no order as to costs. Shri Shrama has submitted that the applicant shall give full cooperation so that the inquiry may be concluded within the time allowed by this order.

B. Chettri
Member (A)

V
Vice Chairman

M.M./