

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD.

Allahabad this the 30th day of July 2001.

Original Application no. 657 of 1993.

Hon'ble Mr. Justice RRK Trivedi, Vice-Chairman

Hon'ble Maj Gen KK Srivastava, Administrative Member

1. Smt. Bhagwan Devi, Widow of B. Lal	
2. Sri Raj Beer	All are sons of late Sri B. Lal,
3. Sri Kishan	R/o Vill Pampur, Post Hatras Jn.
4. Sri Bhagwan Das	Distt. Aligarh.

... Applicants

C/As Sri Anand Kumar  
Sri CP Gupta

Versus

1. Union of India through General Manager,  
Northern Railway, Baroda House,  
NEW DELHI.
2. Divisional Engineer (G),  
Northern Railway,  
ALLAHABAD.
3. Assistant Engineer/Special,  
Northern Railway,  
ALIGARH.

... Respondents

C/Rs. Sri AK Pandey.

...2/-

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O R D E R

Hon'ble Mr. Justice RRK Trivedi, VC.

This OA under section 19 of the A.T. Act, 1985 was filed by late Sri Babu Lal, challenging order dated 10.2.1993 by which his services were terminated by following orders :-

"Since the employee has failed in B-1 category so his services are terminated. Moreover before giving for medical examination he remained absent from 20.11.1992 to 20.1.1993, so his services also terminated for remaining absent for more than 23 days."

The applicant Sri B. Lal was employed as Gangman on 13.1.1973, after completing 120 days, he was ~~confirmed~~ <sup>"confirmed"</sup> temporary status under rules and he continued to serve the railways. The case of the applicant was that he fell ill and could not work as he <sup>"was"</sup> advised rest for 2 months. After recovery when he returned he was sent for medical examination where he was not found medically fit for being regularised as Gangman, thereafter, the impugned order was passed terminating his services.

2. The applicant Sri Babu Lal died on 25.10.2000 and in his place his heirs and legal representatives have been substituted.

3. Learned counsel for the applicant has submitted that impugned order dated 10.2.1993 is not an order of termination simplicitor and it carries stigma against the applicant. Such an order could not be passed without affording an opportunity of hearing to the applicant.

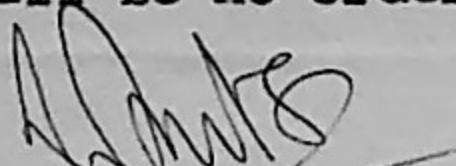
3.

It is also submitted that in the event of opportunity having been given to the applicant he could ~~not~~ <sup>or have</sup> convinced the authority to get his medical examination for lower category and for alternative job. But the applicant was deprived of this opportunity also. It is submitted that the order cannot be sustained.

4. Learned counsel for the applicant on the other hand tried to justify the order. However, he could not justify that such an order could be passed without opportunity of hearing.

5. We have considered the submission of learned counsel for the parties. As the order has been passed in clear violation of principles of natural justice and as the impugned order carried stigma against the applicant it cannot be sustained. The OA is accordingly allowed and the order dated 10.2.1993 is quashed. The applicant shall be treated in the same status as he held before the impugned order was passed. However, he will not be entitled for any back wages.

6. There shall be no order as to costs.

  
Member-A  
Vice-Chairman

/pc/