

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

Dated: Allahabad, the 15th day of December, 2000

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

Original Application No.762 of 1993

1. Smt. Phoolmala, aged about 35 years,
widow of late Sri Ram Prakash.
2. Km. Neelan, a/a 8 yrs,
d/o late Sri Ram Prakash.
3. Sheelu a/a 6 yrs,
s/o late Sri Ram Prakash,
4. Km. Sharla, a/a 4 yrs,
d/o late Sri Ram Prakash.
5. Kaushlendra, a/a 2 yrs,
s/o late Sri Ram Prakash.

Under the guardianship
of the applicant.No.1.

All residents of village Nagla Moti,
Post Neeb Karori, Distt. Farrukhabad.
(By Advocate Sri Anil Dwivedi) Applicants.

Versus

1. Union of India, through General Manager,
Northern Railways, Baroda House,
New Delhi.
2. Divisional Railway Manager,
Northern Railways, Allahabad.
3. Assistant Engineer,
Northern Railways, Etawah.
4. Permanent Way Inspector (Special),
Northern Railways, Etawah.

. Respondents.
(By Advocate Sri Prashant Mathur)

O R D E R

(OPEN COURT)

(By Hon'ble Mr. S. Dayal, AM)

This O.A. has been filed for setting aside
the order dated 12.3.1982 passed by the Assistant Engineer
Northern Railway and the order dated 26.3.1982 passed by

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the Senior Division Engineer-III, Northern Railways, Allahabad. The applicant is coming in the second round of litigation, as he has filed a Suit No.270/85, which was heard by this Tribunal as T.A. No.968 of 1986, in which a prayer was made for quashing of order of removal and for reinstatement of service with all consequential benefits. The grounds on which the reliefs were claimed were stated in paragraph -2 of the said order and the findings of the Tribunal were contained in Paragraphs 4, 5 and 6 of the order.

2. The applicant Sri Ram Prakash died during the pendency of this O.A. and was substituted by his legal heirs by an order dated 10.9.93. The case of the applicant arises from an order of removal passed by the Assistant Engineer 12.3.1982 on account of submission of forged medical fitness certificate dated 22.6.1977 on the basis of which he was appointed as a temporary Gangman.

3. We have heard Sri Satish Dwivedi and Sri Anil Dwivedi, learned counsels for the applicant and Sri P. Mathur for the Respondents. The contentions of the applicant in TA 968 of 1986 were that a defence helper was not made available to him, copies of documents on which charges were framed were not given to him and that other similar involved individuals were exonerated. It was stated that the Assistant Engineer was not the competent authority to punish him and the appeal submitted by him was not considered by the appellate authority. By the order of the Tribunal in TA 968 of 1986, the applicant was allowed to forward fresh appeal, which respondents were directed to consider. In this appeal, the applicant has raised grounds that he was not given an opportunity to cross-

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examine witnesses and produce material defence evidence and that the Enquiry Officer illegally recorded the statement of the appellant prior to prosecution of witnesses. It is also contended that during the course of enquiry, the appellant was not allowed to examine the relevant documents nor supplied copies of such documents. It is alleged that in the cases of S/Sri Jauhar Prasad, A.S. Rathore and K.S. Kapoor, similar charge-sheets were served, but they were exonerated of the charges levelled against them. It is also contended that the appellants were not supplied copy of the Enquiry Report before the punishment order was passed. The order of the disciplinary authority is also alleged to be non-speaking. It is also contended that the order of removal was passed on 12.3.1982 and subsequently, the order dated 26.3.1982 was passed for removal of the applicant with effect from 16.3.1982 instead of 14.3.1982. The applicant has given some more names in the Memo of Appeal of persons similarly situated in respect of the charges levelled against them, but they were not removed from service.

4. The contentions made by the applicant were considered by the Tribunal in TA No.968 of 1996. In Para-4 of their order, the Tribunal has mentioned that in reply to the applicant's demand for supply of documents, he was informed that despite being given an opportunity to examine the said documents, the applicant did not bother to see them. It is also stated that the Enquiry Officer's report clearly indicated that the applicant avoided the enquiry, which had to be held ex-parte. Sufficient materials came up before the Enquiry Officer, who found that the charge was proved. A copy of the

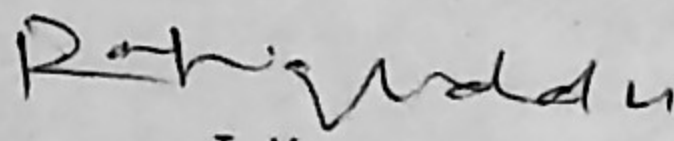
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enquiry report was given to the applicant and he was given opportunity to explain before awarding punishment. The Tribunal observed that there was no doubt that the punishment was awarded by the competent authority. It is further observed by the Tribunal in its order dated 24.1.1992 that the applicant had been praying that a lenient view of the matter should be taken. As there were large number of cases relating to production of such medical certificates and that several employees similarly affected were exonerated, the Tribunal after making observation directed the competent authority to decide the appeal, as his appeal was alleged to have not been answered.

5. Thus, we find that the only issue which should have been considered by the appellate authority was the quantum of punishment. The appellate authority in its order dated 28.10.199, which was passed on the Appeal filed by the applicant informed him that the enquiry was held as per rules and that defence helper was also allowed to participate in the enquiry proceedings as per rules. The applicant was also informed that the punishment of removal from service was perfectly in order, as he has failed to maintain absolutely integrity and devotion to duty. The contention that other employees were dealt leniently was not accepted by the Appellate Authority.

6. The learned counsel for the applicant drew our attention to Rule 22 (2) of Railway Service Disciplinary Rules, 1968 and argued that requirements of the rules were not met and the order was perfunctory in nature.

Rule 22 (2) of Railway Service Disciplinary Rules, 1968 requires the appellate authority to consider as to whether the procedures laid down in the Rule have been complied with; whether findings of the disciplinary authority were warranted on records and whether the penalty was inadequate or suffers and could pass confirming, reducing or setting aside the penalty. We find from the order of the appellate authority that the requirement of Rule 22 (2) have been met in passing the order dated 28.10.1992. We, therefore, find no merit in the case and the same is dismissed. No order as to costs.


J.M.


A.M.

Nath/