

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD

Dated : Allahabad this the 28th day of Nov.1996.

Coram : Hon 'ble Mr. T. L. Verma, Member-J
Hon 'ble Mr. D.S. Baweja, Member-A

Original Application No.1199 of 1993.

Bhai Lal, son of Shri Nuhari, resident of
Bal Singh Khera, Post Office Karora, Police
Station Nagram, District Lucknow.....applicant.

(THROUGH COUNSEL SRI RAKESH VERMA, SRI A.K.MISHRA
AND SHRI K.S.KUSHWAHA)

Versus

1. Union of India, ~~General~~ through General
Manager, Central Railway, Bombay V.T.
2. The Divisional Railway Manager,
Central Railway, Jhansi.
3. Assistant Engineer (Administrative),
Central Railway, Agra Cantt., Pay Office
Central Railway, Agra.
4. Chief Path (Way) Inspector,
Central Railway, Agra Cantt.

.....Respondents.

(THROUGH COUNSEL SRI UMESH CHANDRA & SRI P.MATHUR)

O_R_D_E_R (Oral)

(By Hon. Mr. T. L. Verma, Member-J)

This application under Section 19 of
the Administrative Tribunals Act, 1985 has been

.....2.....

Sh

filed for quashing charge-sheet dated 13.10.1992 issued to the applicant, and for issuing a direction to the respondents to make payment of salary and arrears of salary with all ~~ER~~ other allowances together with interest thereon with retrospective effect.

2. The facts of the case as set out in the O.A. in short are that the applicant was initially appointed as Casual Labour in 1982 in the office of Assistant Engineer (Central Railway) Agra Cantt, Agra. He was given a ^{MKCL} ~~marshial~~ status on 1.1.1985. He claims to have gone on five days' leave with effect from 17.3.1992. It is further stated that the applicant submitted an application on 24.4.1992 making certain allegations against Shri Hari Babu. Copies of this application were sent to respondent No.2 and 4. On the basis of the aforesaid complaint an inquiry was ordered to be held. The applicant was informed of the same by letter dated 30.5.1992 and the applicant was asked to report to the office of P.W.I. Agra Cantt. on 18.6.1992, ~~in that capacity~~. The applicant requested the Chief Path (Way) Inspector by his letter dated 19.6.1992 ~~requesting~~ him that the inquiry be entrusted to a higher officer. In reply to that he was informed by letter No.743 dated 25.6.1992 that the inquiry shall be held by the Chief Way Inspector and the applicant was directed to appeal before him on 14.7.1992. The applicant claims to have gone to appear before the Officer holding inquiry on 14.7.1992 but no inquiry was held on that day and the applicant was advised to

SL

SL

go back and wait for further action in that regard. It is said that thereafter no communication was made to the applicant in that regard. Not only that he was not given work. This matter was brought to the notice of the higher authorities but, the same did not yield any result. The grievance of the applicant is that instead of providing work to him, the respondents have illegally and arbitrarily initiated ^a ~~the~~ disciplinary proceeding against him on the allegation that he was absent without leave from 17.3.1992 till the date of issue of the charge-sheet. This application has, therefore, been filed for the reliefs mentioned above. The charge-sheet ~~has been~~ alleged on the ground of malafide.

FR

3. The respondents have appeared and contested the claim of the applicant. In the counter-affidavit, filed on their behalf, it has been stated that the applicant did not report ~~for~~ duty after so called 5 days' casual leave from 17.3.1992. It has further been alleged that he was absent from duty since 17.3.1992 and that despite information of the enquiry, ^{disciplinary} sent to him, he has not appeared before the Inquiry Officer and accordingly charge-sheet dated 13.10.1992 for un-authorized absence from 17.3.1992 was issued to the applicant. The Inquiry is not proceeding against the applicant because the applicant is not responding to the notice issued to him for filing his written statement of defence.

15-

4. We have heard the learned counsel for the parties and perused the record. The applicant has prayed for a direction to the respondents ^{to be issued} to make payment of salary and arrears of salary including allowances with interest thereon. He has, however, failed to mention the period for which the salary and arrears of salary has been claimed. The charge-sheet dated 17.10.1992 indicates that the applicant is allegedly absenting from duty with effect from 17.3.1992 . The learned counsel for the respondents submitted that salary and arrears of salary claimed by the applicant pertain to the period during which he ~~was~~ allegedly absent without leave. This fact was not controverted by the learned counsel for the applicant in his reply to the arguments of the learned counsel for the respondents. That being so, the prayer of the applicant for issuing a direction to the respondents to pay salary, and arrears of salary for the period during which he is stated to have been ^{without leave} absent cannot be issued.

5. Other prayer pertains to quashing of the charge-sheet. The Hon'ble Supreme Court in catena of decisions has held that in the case of charge-memo in a disciplinary inquiry, the Tribunal or Court can interfere only ^{if} on the charges framed, no misconduct or other irregularity alleged, can be said to have been committed or that the charge-memo is contrary to law. We have perused the articles of charges served on the applicant. The facts alleged therein in our opinion make out a prima-facie case of misconduct, therefore, we are satisfied that no case for

- 16 -

^{our}~~the~~ interference has been made, by the Tribunal.

6. The charge-sheet was issued in 1992 and we are in 1996. There has been delay undoubtedly because of the reluctance on the part of the applicant to appear before the Enquiry Officer. Be that as it may, no court of law can allow ^{8 word} ~~some~~ of democracy remain ^{hangy} ~~lying~~ on a government employee by allowing a disciplinary proceeding to remain pending for an indefinite period. The proceedings drawn up against the applicant therefore, should be disposed of within a reasonable time i.e. to say within 6 months .

7. In view of the above, we dispose of this application with a direction to the respondents to complete the disciplinary proceeding within a period of 6 months from the date of communication of this order. The applicant is directed to co-operate with the Enquiry Officer so that the enquiry is complete d within the period prescribed. The applicant is further directed to appear before the Enquiry Officer and submit his written statement of defence, if any, within a period of one month from today. There will be no order as to costs.

S. Pandey
MEMBER-(A)

T. Menon
MEMBER-(J)

(pandey)