

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Original Application No. 250 250 of 1994

Chhedi Lal

.... Petitioner

Versus

Union of India and Others

.... Respondents

CORAM:

HON'BLE MR. JUSTICE R.K. VARMA, V.C.

HON'BLE MISS. USHA SEN, MEMBER(A)

(By Hon. Mr. Justice R.K. Varma, V.C.)

By this petition the petitioner has challenged the penalty order dated 17.1.94 passed by the Senior Divisional Electrical Engineer, Northern Railway, Allahabad Respondent No. 2, whereby the petitioner has been awarded a punishment of reduction from the post of Senior Clerk in the scale of pay Rs.1200-2040 to that of clerk in the scale of Rs.950-1500 at the stage of Rs.950/- for a period of ten years on the ground that he did not accept the additional charge of Store Clerk.

2. The learned counsel for the petitioner has averred in para 42 of the petition that the General Manager (P)NS/S vide letter No. 939E/228ID dated 24.10.75 informed all concerned that ~~an~~ office clerk cannot be handed over charge of the stores and the relevant extract of the same has been reproduced as under:-

" According to the instructions in vogue an office clerk cannot be utilised as Store Clerk and not made custodian of store. The action taken by your office to hand over the charge of the store to him is not correct".

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3. The learned counsel for the petitioner contends that in view of the aforesaid instructions of the General Manager (P) the basis of the charge of the petitioner clerk not accepting the additional charge of the Store clerk is knocked out and as such the penalty order is liable to be quashed. The learned counsel also prays for an interim order staying the operation of the impugned order till decision of this case.

4. However, we ~~do~~ find that the petitioner ~~is~~ ^{has} directly approached this Tribunal without availing of the alternative remedy of appeal to the appellate authority against the order of disciplinary authority .

5. Learned counsel has pointed out by referring to Annexure 17 which is a letter addressed to the Regional Railway Manager, Northern Railway Allahabad to submit that the D.R.M. had not responded to his request and as such he thought it proper to straightway approach this Tribunal to get justice. We do not think that the apprehension of the petitioner is justified. The petitioner is given liberty to file an appeal before the appellate authority within a fortnight and it is directed that the appellate authority shall entertain the appeal and decide the same within two months from the date of filing of the appeal by a speaking order. However, in the aforesaid circumstances, until the decision of the petitioner's appeal which he would file within the time stipulated as above, the operation of the impugned order shall remain stayed and the petitioner shall not be compelled to go on transfer during the said

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period.

6. With the direction as above, this petition is
be dismissed being premature.

Umesh
Member(A)

R.K. Vora
Vice Chairman

Dated: Feb. 23rd. 1994

Uv/