

Open Court.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD.

....

Original Application No. 385 of 1995

this the 24th day of May 2002.

HON'BLE MR. S. DAYAL, MEMBER (A)
HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Janki Prasad, aged about 45 years, S/o Sri Khamani Singh
R/o Quarter No.1 Dhobi Ghat, Tundla, District Firozabad.

Applicant.

By Advocate : Sri S. Dwivedi.

Versus.

1. Union of India through the General Manager, N.R.,
Baroda House, New Delhi.
2. The Asstt. Engineer (Track), N.R., District
Firozabad.

Respondents.

By Advocate : Sri G.P. Agrawal.

ORDER (ORAL)

BY HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

By this O.A., the applicant has challenged the order dated 31.1.1995 by which he was imposed a penalty of removal from service with immediate effect as the applicant was no more interested in serving railways.

2. It would be relevant to mention here that before filing this O.A., the applicant had filed another O.A. bearing no. 707/90 wherein he had claimed a direction to the respondents to allow him to perform his duties and to pay his salary w.e.f. August '89 and continue to pay the same in future. It is seen from the Counter reply filed by the respondents in that O.A. that the respondents have categorically stated in para 5 that the applicant be directed to

8

report for duty, but the applicant had not joined his duties in spite of repeated letters sent to him. However, in the meantime since the applicant had already been removed from service, the said O.A. was dismissed as having become infructuous vide order dated 6.2.2002. Therefore, ^{we left B} now we ~~are~~ ^{are} with O.A. no. 385/95. The controversy basically is that the applicant had not joined his duties in spite of the repeated letters sent to him by the respondents, nor ~~we~~ did ^{he} accept any of the letters, chargesheet or any other such letters written by the respondents to the applicant on his address available with them in the official record. ^{While the applicant states he was not allowed to join the duties B} It is seen from the file that the applicant had not exhausted the remedy by filing an appeal to the higher authority even though under rules the said remedy was available to him. Since it involves the disputed facts, which would require to be dealt with at length by the respondents, we think that this O.A. cannot be entertained at this stage unless the applicant first approaches the higher authority ^{who shall pass final order} by filing a proper appeal ^{and} by passing a reasoned and speaking order thereon. Since the applicant has not exhausted the remedy available to him, this O.A. is pre-mature and the same is not maintainable.

3. However, since the applicant has been removed from service, we would give a chance to the applicant to file an appeal before the appropriate authority by taking all the grounds available to him, and to direct the respondents to pass a detailed reasoned and speaking order thereon within a period of three months from the date, the appeal is so received. The applicant shall file an appeal within a period of two weeks from the date of receipt of copy of this order to the appellate authority.

4. With the above directions, the O.A. stands disposed of without any order as to costs.



MEMBER (J)



MEMBER (A)

GIRISH/-