

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 19th day of July, 2000.

CORAM : Hon'ble Mr. Rafiq Uddin, Member (J)

Hon'ble Mr. M.P. Singh, Member (A)

ORIGINAL APPLICATION NO. 930 of 1995

Suresh Chandra Tewari S/o Sri Someshwar Nath Tewari  
aged about 42 years resident of Village Narainpur,  
Post Basahi, Tehsil Karchana,  
District Allahabad.

...Applicant.

C/A Shri Satish Dwivedi, Adv.

Shri Anil Dwivedi, Adv.

Versus

1. Union of India through the General Manager,  
Northern Railway, Baroda House,  
New Delhi.

2. The Divisional Rail Manager, Northern Railway,  
Allahabad.

3. The Assistant Engineer,  
Northern Railway, Chunar,  
District Mirzapur.

4. The Permanent Way Inspector,  
Northern Railway, Churk,  
District Mirzapur.

...Respondents.

C/R Shri P. Mathur, Adv.

Shri A.K. Gaur, Adv.

2

O R D E R

(By Hon'ble Mr. Rafiq Uddin, Member (J) )

The applicant has sought quashing of the order dated 17.10.1994 passed by the Assistant Engineer, Northern Railway, Chunar (respondent No. 3) contained in Annexure A-1 to this O.A. and direction to reinstate the applicant on the post of Khalasi with all consequential benefits w.e.f. April, 1992.

2. The case of the applicant is that he is working as Khalasi and had filed O.A. No. 61/92 before the Tribunal for a direction to the respondents to allow him to work on the post of Khalasi. However, the respondent No. 3 issued him a chargesheet dated 03.08.1993 in which it was alleged that the applicant remained absent unauthorizedly w.e.f. 11.04.1992 till the date of chargesheet. The applicant submitted reply to the aforesaid chargesheet. Thereafter, one A.B. Verma, Permanent Way Inspector, Churk was appointed as Inquiry Officer for conducting the inquiry. The Inquiry Officer submitted his report dated 07.02.1994 to the Disciplinary Authority who after considering the same ~~on~~ imposed a punishment of removal from service vide impugned order. The applicant preferred an appeal against the order of punishment to the Divisional Superintending Engineer (I) N.R., Allahabad on 26.11.1994. The Appellate Authority has, however, not passed any order and since more than six months have expired he filed the present O.A..

3. The applicant has challenged the inquiry report and the order passed by the Disciplinary Authority mainly on the ground that the applicant has been prevented from defending himself. Inquiry has been passed in violation

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of principles of natural justice. The Inquiry Officer had fixed 22.12.1993 and 27.02.1994 as dates for holding inquiry. The applicant on the aforesaid dates was unable to attend proceedings on account of serious illness of his wife and he had sent letters to this effect supported by medical certificate issued by the doctor regarding illness of his wife. The said letter were duly received by the Inquiry Officer and he adjourned the inquiry on 22.12.1993. However, on the next date i.e. 27.02.1994 instead of fixing further date for inquiry the inquiry officer <sup>illegally</sup> closed the inquiry proceedings and send his inquiry report to the Disciplinary Authority mentioning that the applicant was not willing to attend the inquiry proceedings. The Disciplinary Authority sent the inquiry report along with a letter dated 02.08.1994 asking the applicant to submit any representation against the aforesaid inquiry report. The applicant accordingly submitted his representation on 30.08.1994. However, the Disciplinary Authority passed the impugned order dated 17.10.1994 and imposed the removal <sup>from</sup> ~~of concerned~~ service.

4. We have heard counsel for the parties and perused the record.

5. It is evident from the perusal of the report of the Inquiry Officer dated 27.02.1994 that the inquiry was fixed on 27.02.1994. However, on that date the applicant sought adjournment through registered letter on account of illness of his wife and requested adjournment till 27.07.1994. But the Inquiry Officer instead of adjourning the case submitted his inquiry report observing that the applicant is not willing to attend the inquiry. It appears

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that no order rejecting the adjournment application was passed by the Inquiry Officer. Thus there is an irregularity in the case. Learned counsel also referred to Rule 9 (23) of Railway Servants Discipline and Appeal Rules, 1968 which provided for holding *ex parte* inquiry the delinquent official failed to appear before the Inquiry Officer. No such procedure appears to have been ~~adopted~~ <sup>adopted</sup> by the Inquiry Officer. Therefore, we find that the irregularity has been committed by the Inquiry Officer by not providing *proper* <sup>R. proper</sup> appropriate opportunity to the applicant during inquiry proceeding. Therefore, the impugned order passed on the basis of such inquiry report is deserved to be quashed. The O.A. is therefore, allowed. The impugned order dated 17.10.1994 contained in Annexure A-1 is quashed. However, we remit the case to the respondents to hold fresh inquiry from the date <sup>of</sup> submitting of ~~his~~ <sup>Re</sup> the chargesheet against the applicant.

*W.S.P.*  
Member (A)

*Dattatreya*  
Member (J)

/S.P./