

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 13th day of October, 2000

CORAM :-

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman
Hon'ble Mr. S. Dayal, Member- A.

Orginal Application No. 196 of 1999

Chhedi Lal S/o Late Sukh Deo, R/o 151/B,
Railway Colony behind Railway Hospital, Etawah.

.....Applicant.

Counsel for the applicant:- Sri B.N. Singh

V E R S U S

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

2. Additional Divisional Rail Manager, Northern
Railway, Allahabad Division, Allahabad.

3. Senior Divisional Electrical Engineer (TRD)
Northern Railway, Allahabad Division, Allahabad.

4. Sri T.N. Kak Ji, Divisional Electrical Engineer/TRD
Northern Railway, Allahabad.

..... Respondents.

Counsel for the respondents:- Sri Amit Sthalekar.



O R D E R (Oral)

(By Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman)

This application has been filed under section 19 of the Administrative Tribunal's Act, 1985 for quashing the charge-Sheet dt. 28.11.95 and 12.11.97 issued by respondent No.3. It has also been prayed that the enquiry officer (respondent No.4) may be directd to be changed and some other person may be appointed as enquiry officer.

2. Facts giving rise to this application are that applicant Chhedi Lal had been serving as senior clerk under the Divisional Electrical Engineer, Northern Railway, Tundla. By order dt. 17.01.94, applicant was reverted to the post of junior clerk. Challenging this order of reversion O.A No. 803/94 was filed. The said O.A was allowed by order dt. 13.05.97 and the order of reversion dt.17.01.94 was quashed. Now the applicant has been served with fresh charge-sheets alleging the charge that he remained absent from duty unauthorisedly during the period of 17.01.94 to 13.05.97 i.e. during the period of order of reversion was in effect.

3. Sri B.N. Singh, learned counsel for the applicant has submitted that the impugned order of reversion was illegal and has been quashed by the order of this Tribunal and applicant can not be deemed to be absent from duty as the order has become infructuous. It has also been submitted that the order of reversion, which has been found illegal, the applicant has rightly disobeyed it and it can not amount to mis-conduct.

4. We have considered the submission of the learned counsel for the applicant very seriously. However, we find ourselves unable to accept this submission.



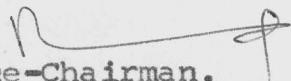
We are of the opinion that as ultimately this controversy is to be decided by the enquiry officer and disciplinary authority, and applicant has already challenged the order of this Tribunal dt. 13.05.97 before Hon'ble High Court by filing writ petition No. 27031 of 1998, it will not be proper for us to express any opinion on merit of the case.

5. The second contention of the learned counsel for the applicant is that enquiry officer (respondent No.4) is prejudiced against him and if he is allowed to continue as enquiry officer, applicant shall not get fair and impartial justice. In sub para 9 to 13 of para 4, allegations have been made against respondent No.4 but respondent No.4 has not come forward to file any counter affidavit. The allegations remained uncontroverted. In the circumstances we are of the opinion that respondent No.2 may be directed to ~~not~~ change the enquiry officer.

6. For the reason stated above this application is allowed partly to the extent that respondent No.2 is directed to change the enquiry officer within a period of one month from the date a copy of this order is filed before him.

7. There will be no order as to costs.


Member-A


Vice-Chairman.

/Anand/