

Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH ALLAHABAD.

Original Application No.67 of 1999.

Allahabad this 20th day of Jan. 2004.

Hon'ble Mr. V.K. Majotra, Vice-Chairman.  
Hon'ble Mr. A.K. Bhatnagar, Member-J.

Purshottam Lal  
S/o Shri Narain Lal,  
Ex. MSM R/o Village Chabilaha,  
P.O. Uttaraon, District Allahabad.

.....Applicant.

(By Advocate : Sri C.P. Gupta  
Sri A Kumar  
Sri S Ram)

Versus.

1. Union of India  
through General Manager,  
Northern Railway,  
Baroda House, New Delhi.
2. Divisional Railway Manager,  
Northern Railway,  
Nawab Yusuf Road,  
Allahabad.
3. Sr. Divisional Superintending Engineer-I,  
Northern Railway, D.R.M.'s Office,  
Allahabad.
4. Assistant Engineer,  
Northern Railway,  
Chunar.

.....Respondents.

(By Advocate : Sri A.K. Gaur)

O R D E R

(By Hon'ble Mr. A.K. Bhatnagar, Member-J)

By this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985 the applicant has challenged the removal order dated 03.02.1990 appellate order dated 05.06.1995 and revisional order dated 24.02.1998, and sought quashment of these orders with all consequential benefits including seniority promotion as well as backwages with compound interest.



2. The case of the applicant is that while working under P.W.I. Chunar, he was served with a charge sheet (S.F.<sup>5</sup>~~4~~) dated 06.07.1988 by Divisional Engineer, Northern Railway, Mirzapur, which was served on the applicant on 12.08.88 levelling charges of unauthorised absence from 15.06.1987 to 06.07.1988 i.e. the date of issue of charge sheet, which is annexure A-4. The applicant submitted a reply thereto on 20.08.88, which is filed as annexure A-5. Vide letter dated 30.08.88, Inquiry Officer was appointed and exparte inquiry was conducted and he was removed by the order dated 03.02.1990 by the Assistant Engineer, Chunar. The applicant after receiving the order of removal, submitted appeal on 26.03.1990 under Rule 18 of Railway Servants(D & A) Rules, 1968 to Senior Divisional Engineer, Northern Railway, Allahabad but when his appeal was not decided in six months period, the applicant filed O.A. No.298 of 1991, which was disposed of on 26.09.94 with a direction to Senior Divisional Engineer, Northern Railway Allahabad to decide the applicant's appeal within a period of three months. In pursuance to the order of the Tribunal, appeal of the applicant was rejected vide order dated 05.06.95, which is annexure A-2 to the instant O.A. The applicant has assailed the appellate order dated 05.06.95 on the ground that appellate authority of the applicant was Senior Divisional Engineer, Northern Railway to whom the applicant has filed the appeal but appellate order was passed by the Divisional Superintending Engineer, Northern Railway, Allahabad who is not competent to pass such orders. Being aggrieved by the appellate order,



the applicant preferred revision on 26.06.1995 (annexure-10 to the O.A.) and ultimately revision of the applicant was also rejected vide order dated 24.02.1998, which is filed as annexure A-3. Learned counsel of the applicant submitted that although the Inquiry Officer was appointed but no inquiry was conducted and no inquiry report was ever supplied to the applicant and the applicant was illegally removed from the service. Learned counsel further submitted that the charges levelled against the applicant are vague and period of sickness of the applicant has also been included in the unauthorised absence, for which the applicant was paid the salary. Learned counsel for the applicant finally submitted that the revisional authority i.e. Addl.Divisional Railway Manager was not aware of the full facts of the applicant's case, hence he did not take any interest and his revision <sup>petition</sup> ~~appeal~~ dated 26.06.1995 was rejected by a non speaking, cryptic and unreasoned order, which is liable to be set aside.

3. Resisting the claim of the applicant, the respondents filed counter-affidavit. Learned counsel for the respondents contended that no such order dated 03.02.1990 is available in the record of the P.W.I. Office so an order dated 18.02.1992 was passed by a disciplinary authority after completion of the proper inquiry, which was sent to the applicant through registered post on 20.04.1992, which was returned undelivered with remark 'refused to take the delivery'. It is further contended that the appellate order and revisional order are correctly passed by the concerned authorities, hence the O.A. is



liable to be dismissed being devoid of merits.

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

5. On perusal of charge sheet(annexure A-4) it is clear that the period of absence for which the applicant was charge-sheeted, is from 15.06.1987 to the date of charge sheet i.e. 06.07.88. It is noticed from careful consideration of the appellate order (annexure A-2), which was passed in pursuance of the order dated 26.9.94 passed in O.A.No.298 of 1991, that after due consideration of the inquiry report and facts of the case, the disciplinary authority awarded the punishment vide order dated 18.03.1992 which was sent to the applicant by the registered post on 20.04.1992, and the same was returned with the postal remark "refused to take the delivery" (as stated in para-3 of the appellate order. It is also found that the applicant has not challenged this order of 18.03.1992 in the present O.A.

6. We have gone through the revisional order passed by Addl.Divisional Railway Manager, Northern Railway, Allahabad dated 24.02.1998, which is reproduced as below:-

" I have gone through the whole case. I find that Shri Purshottam Lal has not been taking his job seriously and had been in the habit of remaining absent very frequently for prolonged periods, which adversely affected the maintenance of points and crossing of the Railways as is



evident from P.W. Inspector letter E/Class III 87 dated 19.10.87. I also find that Shri Purshottam Lal remained absent continuously between 15.06.1986 to March, 92 for a total of 1699 days. Also he remained unauthorised absent prior to this period. I do not find any grounds for reduction in punishment already awarded to him. Revision appeal is rejected."

In the above order, we find that the period of absence of the applicant for which the applicant was charge-sheeted, has been --- shown from 15.06.1986 to March, 1992 for a total period of 1699 days, while the period of absence shown in the charge-sheet is from 15.06.1987 to 06.07.1988, which itself shows that there is some mistake on the part of the revisional authority, who stretched the period of absence himself. In the first four lines, the revisional authority has taken the past conduct of applicant into consideration for being in habit of remaining absent very frequently for prolonged period, without specifying the period of absence clearly.

7. Learned counsel for the applicant has relied on the following Judgments:-

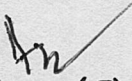
1. 2003(2) A.T.J.172 Shri L.B. Patel Vs.U.O.I. & Ors.
2. 2003(2) A.T.J.44 Radheshyam Tanwar Vs.U.O.I.&Ors.
3. 1999(1) A.T.J.191 State of Punjab & Ors.Vs. Bakshish Singh.

8. In the present case also, from the perusal of revisional order, it clearly established that the revisional authority has not applied his mind correctly in passing the order, which is, in our considered opinion, is cryptic and vague. The revisional order



consists of one para only, which cannot be said to be reasoned one, and the same has been passed without considering the detailed revision petition filed by the applicant. Therefore, same is liable to be quashed.

9. In view of the aforesaid facts and circumstances, and discussion made above, the O.A. is partly allowed. The revisional order dated 24.02.1998, issued from the Office of D.R.M., Allahabad, is quashed. The case is remitted back to the revisional authority to decide the revision petition filed by the applicant (annexure A-10 to the O.A.) by a reasoned and speaking order, considering all the points raised therein, within a period of one month from the date of receipt of this order. There will be no order as to costs.

  
Member (J)

  
Vice Chairman

/M.M./