

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Dated : This the 16th day of May 2002.

Original Application no. 940 of 1999.

Hon'ble Maj Gen K.K. Srivastava, Member (A)
Hon'ble Mr. A.K. Bhatnagar, Member (J).

Sunil Kumar Sharma, (Ex Welder Kanpur Depot),
S/o Chandra Kumar Sharma, R/o 110 E Fazalganj Colony,
Fazalganj, Kanpur.

... Applicant

By Adv : Sri STM Rizvi, Sri S. Dwevedi, & Sri A. Dwevedi

Versus

1. Union of India through Divisional Railway Manager,
Northern Railway, Allahabad.
2. The Senior Divisional Mechanical Engineer, N. Rly.,
Allahabad.
3. Divisional Mechanical Engineer, N. Rly.,
Allahabad.

... Respondents

By Adv : Sri P Mathur

O R D E R

Hon'ble Maj Gen K.K. Srivastava, Member (A).

In this OA, filed under section 19 of the A.T. Act, 1985, the applicant has prayed for quashing of the order dated 11/12-5-1994 removing the applicant from service and also the appellate order dated 5.7.1994 rejecting the appeal. The applicant has also prayed for quashing the revisionary order dated 25.9.1998 rejecting the review application of the applicant by respondent no. 2. The applicant has prayed that the direction by issued to the respondents to reinstate the applicant with all consequential benefits including back wages.

2. The facts, in short, giving rise to this OA are that the applicant was working as welder grade III at Juhi, in the respondent's establishment. On 24.6.1992 one Sri Ram Achal, HTXR and Sri R.L. Verma, WPO, ~~were~~ ^{murkting} ~~gaving~~ enmity ⁱⁿ ~~indulged into exchange of words~~ against the applicant. As per applicant he was assaulted by the above two persons. An FIR was lodged against the applicant under section 145 of the Railway Act and section 504 IPC at GRP, Kanpur Nagar because of the conspiracy hatched against him. The applicant was tried before Munsif Magistrate Kanpur Nagar. Simultaneously, the respondents initiated disciplinary enquiry and handed over charge sheet to the applicant under section 3 (i) (ii) (iii) of the Railway Procedure Code 1966. An ~~exparte~~ ⁱⁿ enquiry was held and Divisional ⁱⁿ Mechanical Engineer, N. Rly., Allahabad on the basis of ~~exparte~~ ⁱⁿ enquiry, by order dated 11/12.5.1994 imposed the penalty of removal from service w.e.f. 30.5.1994. The applicant ⁱⁿ filed appeal before respondent no. 2 ie Senior Divisional Mechanical Engineer which ~~was~~ ⁱⁿ also rejected by order dated 5.7.1994. Thereafter, the applicant filed a revision petition before DRM, N. Rly., Allahabad, who also rejected the same by order dated 2.12.1994. The criminal case pending before the Munsif Magistrate Kanpur was decided on 31.1.1998 and the applicant has been given benefit of doubt and acquitted. After the conclusion of the trial the applicant made representation on 20.4.1998 with the request that his service should be restored as he has been acquitted by the trial court. Learned counsel for the applicant submitted that the respondents have not considered the representation of the applicant at all in the light of the trial court's judgment. He further submitted that the applicant is entitled to get a decision on his representation referred to above.

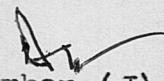
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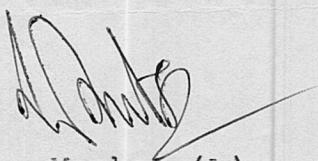
3. Heard learned counsel for the parties and perused records.

4. In our opinion the applicant is entitled to get decision on his representation which he has filed before D.R.M., N. Rly., Allahabad by a reasoned and speaking order within specified time. We are of the view that since the applicant has been acquitted by the trial court it would be appropriate for the respondents to consider his representation keeping in view the various aspects as per rules.

5. The OA is finally disposed of with the direction to D.R.M., N. Rly., Allahabad to consider the representation of the applicant dated 20.4.1998 and decide the same by a reasoned and speaking order. In order to avoid delay the applicant is given liberty to file a fresh representation alongwith copy of this order within three weeks and the same shall be decided by D.R.M., N. Rly., Allahabad within three months from the date the representation and this order are filed before him.

6. There shall be no order as to costs.


Member (J)


Member (A)

/pc/