

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: THIS THE 21ST DAY OF SEPTEMBER, 2005.

Original Application No. 1130 of 1999.

HON.MR.K.B.S.RAJAN, MEMBER -J
HON'BLE MR. A.K. SINGH, MEMBER-A

Bharatji Tripathi, aged about 46 years, Ticket No. 3393, S/o P.S. Tripathi, R/o Fitter Grade II, Carriage Lifting Shopt, Izatnagar, District Bareilly.

.. Applicant

By Adv: Shri A.K. Shukla (Absent).

V E R S U S

1. Union of India through the General Manager, N.E. Railway, Gorakhpur.
2. Chief Works Manager, N.E. Railway Workshop, Izatnagar, Bareilly.
3. Sri B.N. Prasad, Works Manager, N.E.R. Workshop, Izatnagar, Bareilly.
4. The Revisional Authority, Chief Works Engineer, N.E. Railway, Gorakhpur.

.....Respondents

(By Adv: Sri P. Mathur)

O R D E R

BY K.B.S. RANJAN, MEMBER-J

This O.A. has been filed challenging the following orders:-

- (a) Order dated 31.10.1997 whereby the disciplinary authority had passed the order of removal from service of the applicant on the ground of certain misconduct on his part.
- (b) Order dated 20.4.98 of the appellate authority by which the penalty order of removal has been modified to reduction at the lowest stage of the scale of pay of Rs. 4000-6000/- without any cumulative effect.
- (c) Order dated 31.5.99 of the Revisionary Authority whereby applicant's pay re-fixed

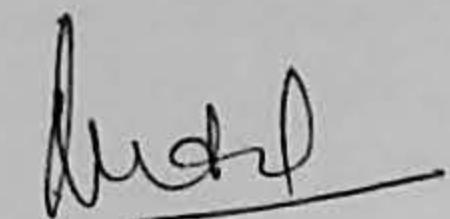
at Rs. 4100/-per month in the pay-scale of Rs. 4000-6000/- without any cumulative effect."

2. The O.A. has been contested by the respondents..

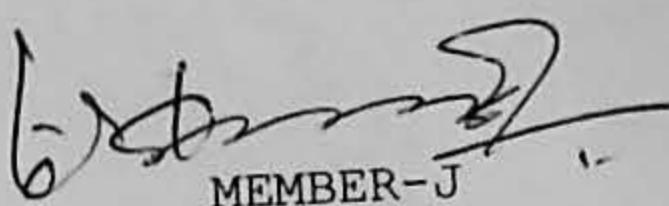
3. In absence of the applicant's representation, with the assistances of the counsel for the respondents, the O.A. is decided on merits invoking rule 15(1) of CAT (Procedure) Rules, 1987.

4. The contention of the applicant that could be seen from the grounds taken in the O.A. is that he was not given proper hearing before passing the penalty order. The ~~order~~ grounds were relating to ⁶repairs of reservoir involved. This cannot be considered by this Tribunal and it is for the Enquiry authority to deal with the same and we are of the considered opinion that the enquiry authority had given a clear cut finding that the charges against the applicant was fully proved during the enquiry proceedings. As regards, opportunity of hearing, there is no mandatory requirement of that nature. As a matter of fact, when the copy of the enquiry report was made available to the applicant on 9.10.1997, he had chosen not to file any representation against the same. Thus, the applicant who had failed to utilize the opportunity, which was made available to him ~~and the~~ ⁶mandatorily can not claim an opportunity, which has not been ^{with} _{any} ⁶

statutory rule. We find no merit in the O.A. and the
same is accordingly dismissed. No costs.



MEMBER-A



MEMBER-J

GIRISH/-