

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

(5)

ORIGINAL APPLICATION No.1396/2000

WEDNESDAY, THIS THE 22ND DAY OF MAY, 2002

HON'BLE MAJ. GEN. K.K. SRIVASTAVA MEMBER (A)
HON'BLE MR. A.K. BHATNAGAR, MEMBER (J)

Triloki Nath (Gangman),
Gang No.4, Sarnath, Varanasi,
aged about 28 years,
S/o Sri Bansi Lal,
R/o House No.S-8/11-C, Khajuri Gola,
Varanasi.

Applicant

(By Advocate Shri S.C. Kushwaha)

Versus

1. Union of India, through
the Secretary,
Ministry of Railways,
New Delhi.
2. Divisional Railway Manager,
N.E. Railway, Varanasi.
3. Senior District Engineer,
N.E. Railway,
O/o the Divisional Railway Manager,
Varanasi.
4. P.W.I., N.E. Railway,
Varanasi.

... Respondents

(By Advocate Shri Anil Kumar)

ORDER - (ORAL)

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

In this O.A., filed under Section 19 of the A.T. Act, the applicant has prayed that the respondents be directed to permit the applicant to discharge his duties and his services should not be terminated on the ground of absence as he was seriously ill. The applicant has further prayed that the respondents should be restrained from oral termination of the applicant and they should be directed to pay the salary of the applicant from the date of his oral termination.

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2. In facts in sort are that the father of the applicant was working as a Gangman and he died in the harness in the year 1990. The applicant was appointed as a Gangman on compassionate grounds on 24.11.1994. The applicant joined his duties at Mau. The applicant was transferred from Mau to ^{Mu}Mar^{hu}adih, Varanasi on 24.4.1997 on his own request. The applicant, on transfer was posted at Sarnath on 23.4.1999. As per the applicant, he proceeded on leave due to his illness. After recovering, the applicant returned to join back the duties on 9.7.1999 before Respondent No.4. He was allowed to join on 10.7.1999. However, the applicant was served with a charge sheet dated 9.7.1999 (SF-ii) with a direction to explain about his absence. The applicant submitted his reply on 22.7.1999. Another charge sheet dated 13.8.1999 (SF-11) was issued against the applicant. On 11.11.1999, another show cause letter was issued to the applicant to submit his reply within a week, otherwise, the disciplinary proceedings would be decided ex-parte. As per the applicant, he has submitted his replies from time to time before the authorities concerned that he was not guilty of absence and in spite of direction of this Tribunal dated 12.12.2000, the respondents have not allowed the applicant to join and have terminated the services orally.

3. The learned counsel for the applicant submitted that the applicant has been confirmed on the post of Gangman and therefore, he cannot be ^{be}deprived from his right or opportunity of hearing. His services cannot be

orally terminated. The action of the respondents in terminating the services of the applicant by oral order is violative of ^{the principles of} natural justice and is causing great hardship to the applicant. Not only that, the action of the respondents is against Article 311(2) of the Constitution of India. The action of the respondents is also violative of Articles 14 and 16 of the Constitution of India. The learned counsel for the applicant has prayed that a clear directive be given to the respondents to allow the applicant to perform his duties and safeguard the applicant and his family from undue hardship.

4. Resisting the claim of the applicant, Shri Anil Kumar, submitted that no such oral order of termination has been passed against the applicant. The applicant is in the habit of absconding from service. He was served with minor charge sheet under the Railway Servants (Conduct) Rules, 1968, for absconding from duty for the period from 23.4.1999 to 30.7.1999 in which he has been given full opportunity to defend himself. The applicant was given duty by the administration on 10.7.1999 (which is also admitted by the learned counsel for the applicant). However, the applicant on 17.7.1999 refused to comply with the orders of supervisor regarding packing of sleeper of Railway track. The applicant, after the incident of 17.7.1999 left the site and has been still absconding. For the act of mis-conduct committed by the applicant on 17.7.1999, a minor penalty charge sheet dated 13.8.1999

was sent to the applicant by Registered Post (Annexure-A8 of the O.A.). The applicant did not submit any explanation to the said charge sheet. On 11.11.99, the Assistant Engineer issued a notice directing the applicant to submit his explanation or else ex-parte proceedings will be initiated. The applicant, instead of submitting his explanation preferred to file this O.A.

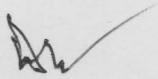
5. The learned counsel for the respondents further submitted that since the applicant is absconding from duties, he has been served with a major charge sheet (S.F.5) dated 9.12.1999 (Annexure-1 to the counter). It is further submitted that the name of the applicant is still continuing in the muster roll of Gang No.4 till date as his services have not been terminated. The applicant is deliberately avoiding to face the disciplinary proceedings initiated against him.

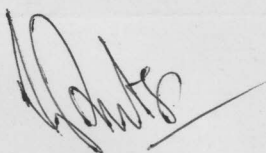
6. We have heard the counsel for the parties and have examined the records.

7. On the one hand the applicant alleges that his services have been orally terminated while on the other, the respondents are alleging that the applicant is absconding from duties. Since, it has been averred in para 18 of the counter affidavit that the name of the applicant still continues to be in the muster roll of Gang No.4, we direct that P.W.I., of Gang No.4 will allow the applicant to discharge his duties which he must join within a week from the ^{in date of} communication of this order. The respondents are

(3)

directed to complete the disciplinary proceedings pending against the applicant within a period of six months and the applicant is directed to fully co-operate in finalisation of disciplinary proceedings initiated against him. The O.A. stands finally disposed of. No costs.


MEMBER (J)


MEMBER (A)

psp.

MA NO. 01/03
in OA 1396/00

OR

MA NO 01/03 filed
by Sri K.P. Singh, Counsel
for the respondents to
grant further six month
time to the respondent to
comply the direction.

The same is submitted
before Hon. Court.

^{for}
10/1/03

16/01/2003

Hon. Mr. A.K. Bhatnagar, JM.

None present for the parties.
As Dimpion Berh is not available,
left this case on 04/2/2003.

At
JM.

(10)

MAND. 01/03⁽¹⁾
in
QA. NO. 1396/00

4.2.03

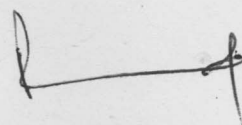
Hon. Mr. Justice R.R.K. Trivedi, V.C.
Hon. Maj. Gen. K.K. Srivastava, A.M.

we have heard Sri Vinod Kumar
holding brief of Counsel for respondents.

This application No. 01/03^{15th} for extension
of time to comply with the order dated
22.5.02 passed in QA. NO. 1396/00. The
direction was to complete the disciplinary
proceedings pending against the applicant
within a period of six months. The Respondents
applicant has prayed for six months
further time to complete the proceedings.

Considering the facts and circumstances
Respondents applicants are allowed four
months further time to complete the
disciplinary proceedings against Sri
Triloki Nath. we make it clear that
no further time will be granted. The
application is disposed of.


A.M.


V.C.

n

Diary No. 5691/2000
 Central Administrative Tribunal
 Additional Bench Allahabad
 Date of Filing 28-11-2000
 OR
 Date of Receipt
 By Post
 Registrar

Central Administrative Tribunal
 Additional Bench Allahabad
 Date of Filing 28-11-2000
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
 BENCH, ALLAHABAD.

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ORIGINAL APPLICATION NO. 1396 OF 2000
 (Under Section 19 of the Administrative Tribunal Act)

DISTRICT : VARANASI

Triloki Nath (Gangman) Gang No. 4,
 Sarnath, Varanasi, aged about 28 years
 son of Sri Bansi Lal, resident of
S-8/11-C
 House No. ., Khajuri Gola,
 Varanasi.

..... Applicant

Versus

1. Union of India through the
 Secretary, Ministry of Railways,
 New Delhi.
2. Divisional Railway Manager,
 N.E. Railway, Varanasi.
3. Senior District Engineer,
 N.E. Railway, Office of the
 Divisional Railway Manager,
 Varanasi.
4. P.W.I., N.E. Railway,
 Varanasi.

..... Respondents

Defendant

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