

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD.

Original Application No. 1100 of 2000  
this the 30th day of July 2001.

HON'BLE MR. S. DAYAL, MEMBER(A)  
HON'BLE MR. S.K.I. NAQVI, MEMBER(J)

Suresh Pal, S/o late Kandhai Lal, R/o Durga Colony  
Baraha, District Pilibhit.

Applicant.

By Advocate : Sri T.S. Pandey.

Versus.

1. Union of India through General Manager, N.E.R., Gorakhpur.
2. Divisional Railway Manager, N.E.R., Izatnagar Division, Bareilly.
3. Senior Divisional Mechanical Engineer, N.E.R., Izat Nagar Division, Bareilly.
4. Asstt. Mechanical Engineer, North Eastern Railway, Izatnagar Division, Bareilly.

Respondents.

By Advocate : Sri S.K. Anwar.

O R D E R (ORAL)

S. DAYAL, MEMBER(A)

This application has been filed for setting-aside the punishment order dated 12/13.8.98 followed by orders dated 29.1.1999 and 17.4.2000 with costs and consequential benefits.

2. The applicant was a Diesel Khalasi when he was served with a major penalty chargesheet dated 29.7.97. The applicant was charged that he was habitual absconding from duty without sanction of leave, without permission and without any information in un-authorised manner. He had previously given promise of not absenting himself from duty, but he failed to follow the same. It is claimed

that the reasons given by the applicant were not considered by the Enquiry Officer ( E.O. in short) nor by the disciplinary authority. The appellate authority also passed the order dated 29.1.99 without considering the points raised by him in his memorandum of appeal. The revising authority by its order dated 17.4.2000 is also alleged to have been committed the same error.

3. We have heard Sri T.S. Pandey for the applicant and Sri S.K. Anwar for the respondents.

4. We have seen the chargesheet for major penalty dated 29.7.97 (Annexure A-4 to the O.A.). The first allegation in the chargesheet is that the applicant did not remain present from 7.4.97 to 1.7.97. It has also been alleged that the applicant had remained absent un-authorisedly 12 times. It is also alleged that the applicant had given an assurance that he would never absent unauthorisedly, but again he remained absent un-authorisedly. The E.O. after examining the evidence concluded that the charges against the applicant is fully established. The disciplinary authority agreeing with the conclusion drawn by the E.O. decided to remove the applicant from service.

5. We find that the applicant in his appeal has only stated that his absence from duty was not intentional but was unavoidable and unforeseen circumstances. He has also stated that he remained on leave due to illness of his wife. Thirdly, he has cited the case of one Rajendra Prasad, whose removal order was set-aside on his appeal and sought similar treatment in his own case also. It has been mentioned by the appellate authority that the applicant had accepted that his wife was suffering from ~~judice~~. With regard to the applicant's

contention that ~~in~~ <sup>not</sup> the case of Rajendra Prasad the removal order was set-aside, the appellate authority had stated that the facts of other case was not known, but in the present case, the applicant remained absent on Extra-ordinary leave for 33 times and he had remained absent without getting his leave sanctioned for 12 times. Therefore, he found that the punishment to be proportionate to the misconduct of the applicant.

6. We find from the order of the appellate authority, in which the order of the disciplinary authority had merged, <sup>not</sup> ~~was~~ the justification given by the applicant, <sup>which</sup> had been considered and a reasoned order has been passed. We, therefore, find no merit in this application and the same is dismissed. No costs.

  
MEMBER (J)

  
MEMBER (A)

GIRISH/-