

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

THURSDAY, THIS THE 21TH DAY OF NOVEMBER, 2002

ORIGINAL APPLICATION NUMBER:- 488/2002

HON. MR. M.P.SINGH, MEMBER-A

HON. MRS. MEERA CHHIBBER, MEMBER-J

Beni Madho Singh  
s/o Late Shri Raghbir Singh  
working on thepost of Cook  
r/o Railway Quarter No. 84-A Type-I. Chunar,  
Post Office-Chunar  
Dist:- Mirzapur. ....Applicat.

(By Shri B.M.Singh, applicant in person)

**Versus**

1. Union of India through General Manager (Northern Railway) Baroda House, New Delhi.
2. Senior Divisional Electrical Engineer (R.S.O.) Northern Railway, Allahabad.
3. Chief Crew controller (R.S.O) Northern Railway, Mughalsarai.
4. Divisional Railway Manager (Northern Railway Allahabad.)

(By Advocate:- Shri A.K.Caur)

**O R D E R (ORAL)**

(By Hon. Mrs. Meera Chhibber, J.M)

By this O.A, the applicant has challenged the order dated 16-11-1999 and has sought a further direction to the respondents to pay the salary of the applicant during the period from 17-11-1999 to 19-8-2000 and from 5-5-2001 till present date. He has also sought a direction to the respondents to correct/fix salary by giving increment in each year. It is submitted by the applicant that he was appointed as a Cook on 15-4-1974 and was promoted as Cook on 19-11-1979 and transferred to Mughalsarai from Chunar. However, on 29-8-1986 he was again transferred to Chunar from

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Mughalsarai on the same post of Cook. It is his case that since he wanted to give a social party to the public namely Bishnu Preet Bhoj on 23-11-1999, he applied for leave from 18-11-1999 to 27-11-1999 which was duly granted by the authorities and vide order dated 16-11-99, he was directed to give his charge to Munne Khan Box-Khalai and not to join the next duty on 17-11-1999. Thereafter he has given number of reasons as to why he could not join the duties but inspite of it, on 18-8-2000, standard form 5 under rule 9 of Railway Servant ( Discipline and appeal) rules 1968 was issued to him on the allegation that he was continuously absent from his duty since 11-7-1999. After the inquiry was concluded the report was submitted on 14-5-2001 in which he was found to be guilty of the charge ( Annexure A-5). The respondents issued letter dated 14-5-2001 advising the applicant to file his objection to the Inquiry report within 15 days failing which action would be taken against him. It is stated by the applicant that he filed his objection on 24-6-2001 as Inquiry report was received by him only on 24-6-2001 ( Annexure A-5 and A-6). However, the respondents issued a reminder to the applicant on 26-7-2001 granting him two days additional time for filing the objection. The applicant has stated that it is due to the complaints made by him against some persons that they are trying to harass and raise difficulties in peaceful working of the applicant at Mughalsarai and it is they, who are sending wrong information to the officers concerned. He has thus submitted that the action of the respondents are malafide. He has thus claimed the reliefs as mentioned above.



2.

The respondents have opposed the O.A and have taken a preliminary objection to the maintainability to the O.A itself as they have submitted that after a proper Inquiry was held against the applicant the Disciplinary Authority by its order dated 10-1-2002 has passed the final order for compulsory retirement of the applicant from service keeping in view the fact that he had remained absent for 10 long years. But the applicant has not filed any appeal against the said order till date. Accordingly they have submitted that the present O.A is mis-concieved and is liable to be dismissed as he is no longer in service with the respondents and if he is aggrieved, he ought to have challenged the final orders passed by the Disciplinary Authority. The respondents have annexed the order dated 10-1-2002 with their counter affidavit as Annexure R-5 (page 35) . Since the applicant was appearing in person we asked him whether a copy of this order had been given to him or not, to which he replied he has been given the same and even though the respondents had denied that the applicant had given any appeal against the said order to the Higher Authority, it was submitted by the applicant that he filed an appeal before the Higher Authority on 5-3-2002. But since the concerned authorities refuse to take the same, he has finally sent it by registered post on 16-3-2002. It is submitted by him that the said appeal is annexed with the rejoinder at page 16. The correctness of this statement cannot be verified by us at this stage as the applicant is not a legally trained person. However, keeping in view the interest of Justice, we give one more opportunity to the applicant to file a fresh appeal against the order dated 10-1-2002 to the Appellate Authority within a period of 6 weeks from the date of receipt of a copy of this order by taking all the contentions which are available to him as we are satisfied that the O.A is present form has become

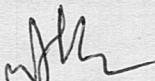
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infructuous in view of subsequent development as mentioned above. Respondents are directed to dispose of the same by passing a detailed and speaking order within a period of two months thereafter. With the above directions the O.A is disposed of. No order as to costs.



Member-J



Member-A

Madhu/