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OPEN COURT
**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.**

ORIGINAL APPLICATION NO. 562 of 2002
ALLAHABAD THIS THE 7th DAY OF APRIL, 2009.

Hon'ble Mr. Justice A.K. Yog, Member (J)
Hon'ble Mrs. Manjulika Gautam, Member (A)

Guru Prasad Nath S/o Sri O.P Nath, aged about 39 years, resident of Quarter NO. 2-A, Type III Railway Colony, Khalispur, Varanasi.

.....Applicant.

By Advocate: Shri S.S. Sharma
Versus.

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Chief Engineer/T & P Northern Railway, Baroda House, New Delhi.
3. The Deputy Chief Engineer, Concrete Sleeper Plant, Northern Railway, Subedarganj, Allahabad.
4. The Senior Engineer, Concrete Sleeper Plant, Northern Railway, Khalispur, Varanasi.

.....Respondents

By Advocate: Shri P.N Rai

O R D E R

Delivered by Hon'ble Mr. Justice A.K. Yog, J.M

Heard Shri S.S. Sharma, Advocate appearing on behalf of the applicant and Shri P.N Rai, Advocate appearing on behalf of the respondents.

2. At the outset, we may point out that respondent NO. 5/Shri Shanker, Assistant Engineer/CSP, Northern Railway, Khalispur, Varanasi has been deleted with our permission by the learned counsel for the applicant on his oral statement. In view of the above, allegation

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of malafide against Respondent NO. 5 shall not be looked into and hence stand ignored.

3. Learned counsel for the applicant submits that there is no order holding applicant guilty of being absent from 8.3.2001 to 30.3.2001 or absent without leave. Documents annexed with this OA show that certain authority did advise for concerned taking disciplinary action. Para 19 of supplementary counter reply reads:-

"19. That the contents of para 4.22 and 4.23 of the Original Application, as stated are not admitted. It is further stated that the Government employee who does not discharge his duties, is not liable for the payment of salary, whereas disciplinary action should also be taken against the employee, but in case of applicant, administration has taken very lenient view".

4. According to the applicant, salary of the applicant for aforesaid period has been deducted without giving opportunity/holding disciplinary enquiry. Photostat copy of the Attendance Register annexed as part of Annexure 1 to the O.A. show that the applicant was present and signed Attendance Register in normal course during aforesaid period.

5. Shri P.N Rai, learned counsel for the respondents has drawn our notice to para 2 of the supplementary counter contending that salary has been deducted on the principle 'no work no pay'. Argument of this nature on behalf of the respondent (A Govt. Undertaking) is not worthy of appreciated, but deserves to be depreciated.

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6. If it is correct that the applicant did present himself during duty hours and signed attendance register in ordinary course, there has to be some good reason (sustainable in law) to show that deduction of salary is justified. Documents on record (annexed with O.A.) show that Higher Authority did indicate that Disciplinary Action was warranted. Reference may be made to Annexure 3 to the O.A.

7. Deduction of salary on the principle of 'no work no pay' is not permissible if it is by way of punishment. Deduction of salary (in question) is already by way of punishment. Respondents have failed to show that disciplinary enquiry was initiated before deducting salary in question.

8. Learned counsel for the respondents has referred to Annexure A-3 and A-6 to the O.A to show that Disciplinary enquiry was contemplated, applicant was given show cause notice and thereafter punishment has been awarded. This argument has no merit. Documents in question do not show that applicant was served with 'charge-sheet' and disciplinary enquiry was held as per relevant Rules. Respondents have failed to file copy of proceedings of disciplinary enquiry also when was communicated to the Applicant and if so, whether applicant filed appeal or not.

9. In view of the above, we are of the view that applicant is entitled to the relief claimed. We would have normally issued

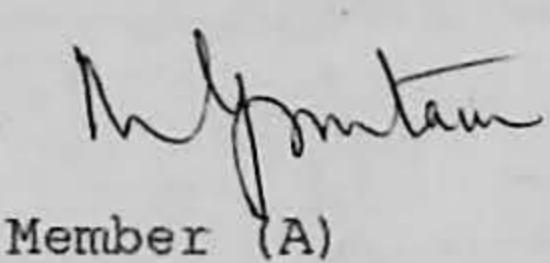
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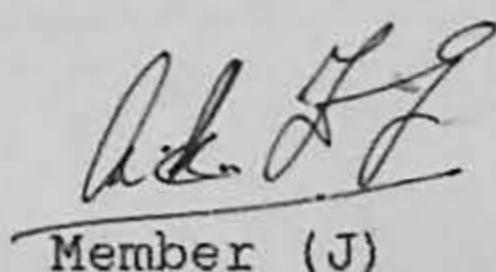
'mandamus' directing the respondents to hold disciplinary enquiry but for peculiar facts of the instant case, vis the respondents did not initiate disciplinary enquiry before deducting salary from the period 8.3.2001 to 30.3.2001. There is nothing in the counter and supplementary counter to show that Disciplinary enquiry was ever initiated.

10. Considering that salary (in question) was deducted in March 2001 and the applicant is continuing in service and that 'disciplinary enquiry' was held at appropriate stage. We direct the respondents to pay the salary to the applicant for the aforesaid period (8.3.2001 to 30.3.2001) alongwith 9% simple interest per annum from the date it became due till date of actual payment within 2 months from the date of receipt of certified copy of this order.

11. O.A. is allowed to the extent indicated above. No order as to costs.



Member (A)



Member (J)

Manish/-