

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 7th day of December 2006

Original Application No. 1103 of 2003

Hon'ble Mr. Justice Khem Karan, Vice Chairman
Hon'ble Mr. P.K. Chatterji, Member (A)

Jeet Narain, S/o Ram Dulare,
R/o Village Pura Delhi, P.O. Meja Road,
District Allahabad.

. . . Applicant

By Adv: Sri A.K. Mishra, Sri A.S. Diwakar, Sri B.N.
Singh & Sri R. Shyam

V E R S U S

1. The Union of India through the General Manager, North Central Railway, Allahabad.
2. The Divisional Railway Manager, North Central Railway, Allahabad.
3. Senior Divisional Electrical Engineer (TRD), North Central Railway, Allahabad.
4. Divisional Electrical Engineer (TRD), North Central Railway, Allahabad.

. . . Respondents

By Adv: Sri S. Singh

O R D E R

By Hon'ble Mr. P.K. Chatterji, AM

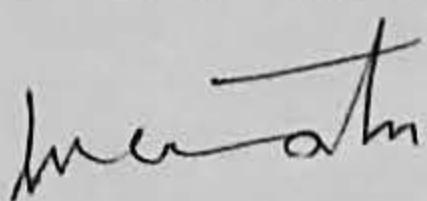
The applicant in this OA claims that he has worked as Casual Labour under PWI Northern Railway, Meza Road Allahabad in broken period from 06.05.1977 to 05.06.1978 and this was verified by One Sri Madan Mohan Srivastava PWI Meza Road. Thereafter, he worked as casual labour in different spells, but

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was granted temporary status inspite of having worked for more than 120 days. The applicant further stated that he was not employed as casual labour from 05.06.1978 to 07.09.1982 but was again employed from 08.09.1982. He was screened and empanelled in January 1984 and placed at Sl. No. 109. He was also directed to join as substitute Khalasi for a period of 07 months but was not given any duty. He was aggrieved that his juniors had been given temporary status. So he filed OA No. 11 of 1987 of in this Tribunal. The Tribunal decided the OA by giving direction to the respondents that an enquiry should be made into the allegation (as stated by the respondents) that the casual labour card with which he had worked from 06.05.1977 to 05.06.1978 was forged, and then try to redress the grievance of the applicant within a period of three months.

2. The respondents on the basis of the enquiry conducted by them terminated the service of the applicant by a termination simplicitor on 10.04.1989. Being aggrieved the applicant again filed OA No. 461 of 1989. It is seen that a number of legal battles was fought by the applicant in this Tribunal and, therefore, it is considered necessary to give a summery of the cases as below:

- a. First OA 11 of 1987 - it resulted in a direction by this Tribunal to make an enquiry into the allegation of fake card

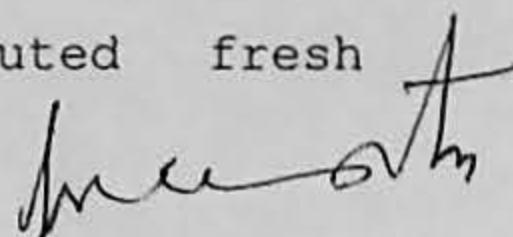


and, thereafter, redressed the grievance within three months.

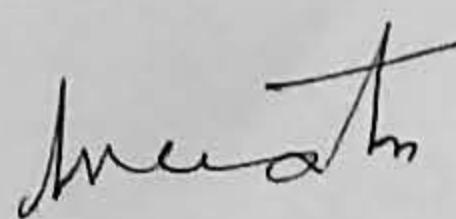
b. OA 461 of 1989 - This OA was filed challenging the order of termination simplicitor dated 10.04.1989. In this OA the Tribunal quashed the order of termination simplicitor to take the applicant back on duty and to consider him as having attained temporary status from the day he completed 120 days of work. The Tribunal however, gave liberty to the respondents to take action in respect of the allegation of forged casual labour card in accordance to the major penalty provisions of the Railway Service Rules. It was further specified in the order that in case no action was initiated within three months of receipt of the copy of this order, the applicant should be assigned seniority as per his empanelment approved in February 1984. It was further directed that the respondents could pay compensation of Rs. 25,000/- to the applicant for denial of opportunity to work during the period and earn wages. The judgment was delivered on 06.11.1997.

c. The respondents filed writ petition No. 7045 of 1998 before the Hon'ble Allahabad High Court. The Hon'ble High Court upheld order of the Tribunal except of payment of compensation as directed:

d. OA 414 of 2000 - This OA was filed by the applicant against the order of termination of service issued by the respondents dated 23.03.2000. It is pertinent to mention here that after the decision of the WP mentioned above the respondents instituted fresh

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disciplinary proceedings as per direction of OA 461 of 1989. IO and PO were engaged and the applicant was called upon to be present in the enquiry and gave opportunity to defend himself. It would appear from the relevant records from the pleadings that the applicant raised objections and made several representations to cancel the proceedings for the reason that on OA 461 of 1989 the Tribunal had clearly directed that unless disciplinary action was initiated within three months the applicant should be given the due benefits. But the respondents failed to initiate disciplinary proceeding within the stipulated time. The respondents however did not agree to cancellation of disciplinary proceeding and went ahead, and on the basis of the finding of the enquiry imposed upon the applicant the penalty of removal from service. Being aggrieved the applicant approached the Tribunal in OA 414 of 2000 challenging the order of removal dated 23.03.2000 and the appellate decision and the decision of the reversionary authority issued subsequently. The Tribunal after considering the matter decided that OA on 14.01.2003 in which the applicant was directed to seek departmental remedy by filing an appeal. In this OA the Tribunal considered the arguments of the applicant that delay in instituting disciplinary proceedings beyond three months as directed in OA 461 of 1989 had caused the disciplinary proceedings to become void. But the Tribunal in its order observed that the delay would not render the order of removal void because of the fact that WP 7045 of 1998 which considered this aspect of

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the matter was still pending in the Allahabad High Court

3. In this OA the applicant has sought the following reliefs:

- a. Issue a writ, order or direction in the nature of Certiorari to quash the order of removal from service dated 23.03.2000 passed by Respondent No. 4 as well as appellate order dated 10.04.2003 passed by the respondent No. 3.
- b. Issued a further writ, order or direction in the nature of mandamus commanding the respondents to reinstate the petitioner in service with full back wages and with all other consequential benefits.

4. We are of the view that the decision in this OA has to rely on two aspects. Firstly, the plea which has been taken again and again by the applicant that the disciplinary proceedings resulting in his removal from service was initiated after more than three months from the date of the order on OA 461 of 1989. Therefore, it is void. But we have seen that this matter was already considered by the Tribunal in OA 414 of 2000 which had found no illegality in the disciplinary proceedings for that reason. Therefore, we take the matter as settled as decided in OA 414 of 2000.

5. The other point which is important is the repeated pleas by the applicant that he was not given reasonable opportunity by the respondents and for

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these reasons the disciplinary proceeding was vitiated. For example he wanted as witness some officials one of whom being Madan Mohan Srivastava the then PWI Meza Road, for verification of the authenticity of causal labour card. He says his repeated pleas did not yield any result and for this reason the disciplinary proceedings leading to his removal dated 23.03.2000 should be declared void.

6. We observe that this matter has also been considered by the Tribunal in OA 414 of 2000 and it would appear from the direction of the Tribunal that it did not find infirmity in the disciplinary proceedings. Therefore, there is no scope of reopening this matter.

7. This leaves us with only one more question i.e. the allegation that the appellate order impugned in this OA was non speaking and, therefore, deserves to be quashed. We have taken a look of the order of the appellate authority, and we find that the order is sufficiently detailed and reasoned. In our view there is no deficiency in the same.

9. For the above mentioned reasons we do not find merit in this OA which is dismissed with no order as to costs.

/pc/

Member (A)

Vice-Chairman

Mehath

*V. J. D. S.
07.12.52*