

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 1204 OF 2003

TUESDAY, THIS THE 14th DAY OF OCTOBER, 2003

HON'BLE MR. A.K. BHATNAGAR, J.M.

HON'BLE MR. D. R. TIWARI, A.M.

Brij Kumar Singh,
aged about 39 years, son of Shri
Vishwanath Pratap Singh, @Banarasi Singh,
r/o Village Negura, Police Station-Chandauli,
District-Chandauli.
at present working as Clerk Grade-2 in the office of
Sr. Divisional Engineer (Co-ord.) Est. Central Railway,
Mughalsarai. District-Chandauli.

...Applicant

(By Advocate : Shri A.K. Dave)

V E R S U S

1. Union of India through General Manager,
East Central Zone, (Railway) Hajipur, State of Bihar.
2. Divisional Railway Manager,
East Central Zone, Mughalsarai,
District-Chandauli.
3. Senior Divisional Engineer (Co.-ord)
East Central Railway, Mughalsarai, District Chandauli/
Disciplinary Authority.

....Respondents

(By Advocate : Shri K.P. Singh)

O R D E R

By Hon'ble Mr. A.K. Bhatnagar, J.M.

By this Original Application filed under section 19
of Administrative Tribunals Act, 1985, the applicant has
challenged the order of removal dated 18.09.2003 and sought
the following reliefs:-

- (i) That the impugned order dated 18.09.2003 passed by
the respondents No.3 removing the applicant from
service be set aside.

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- (ii) to issue any suitable order or direction to which this Hon'ble Tribunal may deem fit and proper in the interest of justice.
- (iii) The cost of the application be awarded in favour of the applicant against the respondents."

2. The facts of the case are that applicant was working as Clerk Grade-II in the respondents establishment. The applicant was involved in a false criminal case and has been convicted by Additional Session Judge (Fast Track Court No.3) Varanasi under sections 147/148/302/307 I.P.C. vide order dated 23.05.2003. The applicant has already filed an appeal before the Hon'ble High Court in Writ Petition No.2658/2003 and Hon'ble High Court had been pleased to stay the Judgment and order of the Trial Court vide order dated 19.06.2003. On account of conviction, applicant was suspended from service on 19.06.2003 and on 27.06.2003 a notice was sent to the applicant proposing for removing the applicant from service. He filed his reply to the notice on 14.07.2003, ultimately the order of removal was passed by the respondents on 18.09.2003.

3. Learned counsel for the applicant submitted that the impugned order dated 18.09.2003 passed under rule 14(2) RS(D&A) Rule 1968 removing the applicant from service has been passed by the respondent No.3 without considering the applicant's reply dated 14.07.2003, which is illegal, arbitrary and against the law. Aggrieved by this, applicant filed this O.A. without exhausting the departmental remedies available to the applicant.

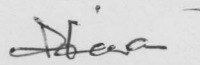
4. Lea med counsel for the respondents has drawn our attention to the fact that the applicant has not filed any appeal against the removal order. Thus, he has not exhausted the departmental remedies provided under section 20 of Administrative Tribunals Act, 1985 hence the O.A. is not maintainable.

5. We have heard the learned counsel for both the parties and perused the pleadings.

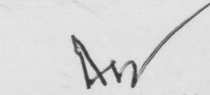
6. We find force in the submission of the counsel for the respondents and it is admitted that no appeal has been filed by the applicant in the department so far. After considering the submission of the counsel for the parties, we are of the opinion, that this O.A. can be disposed of at the admission stage itself with liberty to applicant to file an appeal before the competent authority within a specified period, which shall be decided by the respondents within a reasonable time.

7. The O.A. is accordingly disposed of at the admission stage itself with a liberty to the applicant to file an appeal before the competent authority within a period of one month from the date of receipt of a copy of this order and the competent authority shall decide the same with a reasoned and speaking order as per rules as expeditiously as possible preferably within 3 months.

8. There will be no order as to costs.


Member (A)

shukla/-


Member (J)