

[Open Court]

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH ALLAHABAD**

THIS THE 02nd DAY OF DECEMBER, 2011

Present:-

HON'BLE MR. JUSTICE S. C. SHARMA, MEMBER-J
HON'BLE MR. SHASHI PRAKASH, MEMBER-A

Original Application No. 1478 of 2003

U/s 19, Administrative Tribunal Act, 1985

Shiv Babu R., aged about 37 years, Ex Goods Driver/NDB, S/o Late Ram Deo under Senior DME, Western Railway Divisional Office, BCT, r/o village-Aunta, Post-Aunta, District-Allahabad.

.....Applicant

VERSUS

1. Union of India through General Manager, Western Railway, Church Gate Mumbai.
2. General Manager, Western Railway Churchgate, Mumbai.
3. Commissioner of Railway safety, Western Circle Mumbai.
4. Shri Ajay Sharma, (Enquiry Officer) (Loco Inspector/Power Crew controller) Western Railway, Nandurbar.
5. Divisional Railway Manager, Western Railway, Mumbai (BCT).
6. Senior DME, Western Railway (BCT), Mumbai.
7. Chief Operating Manager, Western Railway, Churchgate, Mumbai.
8. Chairman, Railway Board, Rail Bhawan, New Delhi.

.....Respondents

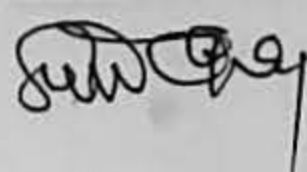
Advocate for the Applicant:- **Sri Sudama Ram.**

Advocate for the Respondents:- **Sri K. P. Singh.**

ORDER

Instant O.A. has been instituted for the following reliefs:-

“(a). The Hon'ble Tribunal may graciously be pleased to quash the impugned orders dated 20.9.2001 (Annexure-A-1), 5.1.2002 (Annexure-A-2), 24.2.2002 (Annexure-A-3),



19.7.2002 (Annexure-A-4) and 9.12.2002 (Annexure-A-5) and direct the respondents No.2, 5 and 6 to re-instate the applicant in service giving all consequential benefits as if he were in service.

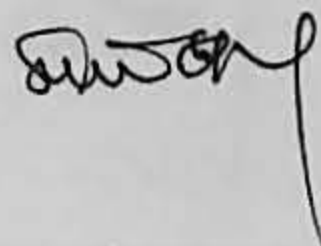
(b). Any other writ, order or direction which the Hon'ble Tribunal deems fit and proper, may also be given under circumstances of the case.

(c). Cost of the application may also be awarded."

2. We have heard Sri Sudama Ram, Advocate for the applicant and Sri K. P. Singh, Advocate for the respondents and perused the entire facts of the case.

3. Today at the time of final hearing an affidavit has been filed on behalf of the respondents and on the strength of this Affidavit Sri K. P. Singh, Advocate for the respondents argued that the applicant had already moved an application before this Tribunal on 28th February, 2011 for withdrawal of this O.A. as Western Railway Administration had reinstated the applicant and hence he does not want to proceed with this O.A.. Learned counsel for the respondents stated that in accordance of the application the applicant had already been reinstated on the post to which he agreed.

4. Learned counsel for the applicant stated that he is not in a position to confirm or deny this application and he also



argued that he is ready with the arguments and that ~~too~~² for the last several months he could not contact the applicant and the whereabouts of the applicant is not known to him. That there was head ² of collusion of two railways and on the date of accident there was no fault of the applicant in the accident and the person who was guilty for the accident was warned only whereas, the applicant of whose there was no fault has been removed from service and that the applicant is also facing criminal trial regarding the same accident, but the inquiry has been concluded in that case.

5. The merits of the case are not required to be discussed as has been argued by the learned counsel for the applicant. We have to see that whether any application was moved by the applicant for withdrawal of the O.A.. Although, the application of the applicant for withdrawal of the O.A. is not on record, but it appears that due to wrong mentioning of O.A. number on the application it could not ~~come~~^{be placed} on record, the correct number of the O.A. is 1478 of 2003 whereas, in the application O.A. No.1557 of 2003 has been mentioned, but there is also a circumstance to draw the inference that the applicant himself moved an application for withdrawal of

Antony

O.A. because the case was listed on 28th March, 2011 in the Court and ^{at 2} that time learned counsel Sri K. P. Singh, stated that ₁ as per his own information/understanding the applicant inclined to withdraw this O.A. and this statement was given by Sri K. P. Singh earlier as on 28th March, 2011 more-than sufficient time was available to the applicant's Advocate to verify the veracity of this statement. And today this fact has been alleged on affidavit and the application of the applicant has been enclosed as annexure. Several doubts have been expressed by the learned counsel for the applicant about this application that there is no verification on this application by the applicant and the copy of the application has been filed by the respondents' Advocate and not by applicant's Advocate and there are other circumstances which establish that this application can be forged. But there appears no substances in the contention of the learned counsel for the applicant because one more application was moved by the applicant before the Sr. Divisional Personnel Officer, Mumbai Central on 08th March, 2011 that he is withdrawing his C.A.T. case No.1557 of 2003 on 28th February, 2011 so please put him in Railway Service in accordance with Headquarters remarks in Group "C" category, hence this fact also strengthen the contention of

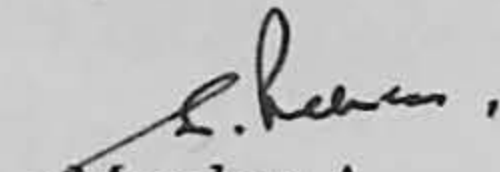
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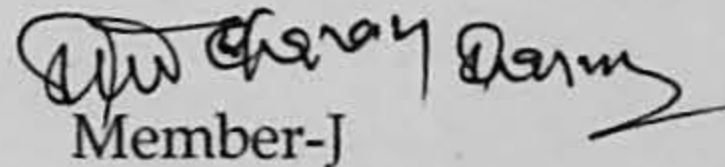
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the respondents that applicant has been given posting as is evident from Annexure filed along-with affidavit. In these circumstances it is established that an application has been moved for withdrawal of the O.A.. As the applicant has withdrawn this O.A. hence it appears that he is satisfied with the action of the respondents and he wants to withdraw this O.A. and there is no circumstance to disbelieve ^{the} ~~the~~ this application of the applicant because earlier this fact was stated by Sri K. P. Singh, Advocate in the Court on 28th March, 2011, hence the application of the applicant deserves to be allowed.

6. The application for withdrawal of the O.A. is allowed, consequently the O.A. is dismissed. No order as to costs.


Member-A

/Dev/


Member-J