

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Dated : This the 13th day of DECEMBER 2004.

Original Application no. 778 of 2003.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman  
Hon'ble Mrs. Roli Srivastava, Administrative Member.

Ashok Kumar Jain, S/o Sri K.C. Jain,  
R/o Plot No. 123, Subhash Nagar, Maruti Estate,  
Agra.

... Applicant

By Adv : Sri R.K. Nigam

V E R S U S

1. Union of India through General Manager,  
North Central Railway,  
Allahabad.
2. Divisional Railway Manager,  
North Central Railway,  
Jhansi.
3. Senior Divisional Electrical Engineer (TRO),  
North Central Railway,  
Jhansi.

... Respondents

By Adv : Km. Sadhna Srivastava

ORDER

By Justice S.R. Singh, VC.

The applicant, a Railway Employee is facing disciplinary enquiry. His application for Defence Assistant/Helper was earlier ~~was~~ rejected on the ground that the Defence Assistant nominated by the applicant was a serving Gazetted Officer while the applicant happens to be a non gazetted employee. In the circumstances the applicant ~~happens~~ was not entitled to nominate a serving gazetted officer as his defence

helper. The applicant preferred OA, which was disposed of after taking into <sup>consideration</sup> Rule 9 (13) (b) of the Railway Servant (Discipline and Appeal) Rules, 1068 which provides that the Railway servant may also present his case with the assistance of a retired railway servant, subject to such condition as may be specified by the President from time to time by general or special orders in this behalf.

2. Since the applicant preferred a representation and the Tribunal has disposed of the OA with the direction to the Competent Authority to consider and dispose of his representation dated 04.03.2002. The said representation came to be rejected by the impugned order dated 24.06.2003 (Ann 1) on the ground that though Sri J.P. Singh who was nominated by the applicant as his Defence assistant had retired, but since he retired from Railway service from a different Railway, therefore, it was not possible to nominate Sri J.P. Singh as his Defence Assistant. Reliance has been placed on RBE no. 183/92 dated 05.11.1992 which provides that a Railway servant involved in disciplinary proceedings may present his case with the assistance of a retired servant, subject to the following conditions :-

"The retired Railway servant concerned should have retired from railway service under the same Railway Administration on which the delinquent railway servant is working. However, the relaxations in the matter of choice of defence helper from other Railway Administrations, as contained in items (a), (b) and (c) of para (2) of Railway Board's letter No. E(D&A)90RG6-106 dated 08.10.1990 would be admissible, a subject to the condition mentioned in that letter."

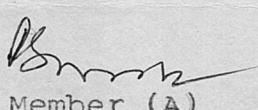
The impugned order being in conformity of the aforesaid RBE No. 183/92 warrants no interference by the Tribunal particularly when validity of the RBE No. 183/92 has not been questioned.

Q.D.V

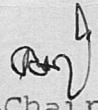
3.

3. In the circumstances, therefore, we find no merit in the case. Accordingly, the OA is dismissed. It is, however, observed that the applicant may nominate his Defence assistant in accordance with rules.

4. There shall be no order as to costs.



Member (A)



Vice-Chairman

/pc/