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Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD**

ORIGINAL APPLICATION NO.1406 OF 2006

ALLAHABAD THIS THE 31st DAY OF March, 2008

HON'BLE MR. JUSTICE A.K. YOG, MEMBER-J
HON'BLE MR. N.D. DAYAL, MEMBER-A

Harcharan, Aged about 45 years, S/o Sri Panna Lal, T. No. 1323, Loco Shed Jhansi, R/o Khore Gadia Gaon, P.S. Prem Nagar, District Jhansi.

.....Applicant

(By Advocate Shri Rakesh Verma)

V E R S U S

1. Union of India through General Manager, North Central Railway Nawab Yusuf Road, Allahabad.
2. The D.R.M. (P), N.C.R., Jhansi Division, Jhansi.
3. The Divisional Mechanical Engineer (CGL), North Central Railway, Jhansi.
4. The Asstt. Mechanical Engineer (P) (N), North Central Railway, Jhansi.

.....Respondent

(By Advocate: Sri K.S. Saxena)

O R D E R

Justice A.K. Yog, Member-J

Heard Sri Rakesh Verma, Advocate on behalf of the applicant and Sri K.S. Saxena, Advocate on behalf of contesting respondents.

2. According to the pleadings contained in the O.A., the applicant was working as Ladder man in the Loco Shed, Jhansi. He was placed under suspension vide order dated 19.7.1985. It appears that some enquiry took place on the

charge of the applicant being absent from duty and without the authorized leave.

3. In the Counter of the respondents, it has also come out that some action was taken against the applicant in the year 1984 (para 19 of the Counter Reply), which reads :

".....In reply, it is clarified that previously also the employee was taken up for unauthorized absence from duty under DAR. But on the basis of written assurance dated 8.11.1984, copy attached as Annexure CR VI to this Counter Reply, the administration dropped the DAR action against the applicant vide order dated 7.12.1984. Copy attached as CR Annex. VII to this Counter Reply."

4. The reply given by the applicant in para 16 of his Rejoinder to the above quoted para of Counter Affidavit, but specific averments made in the above quoted para has not been controverted.

5. According to the respondents, the applicant gave an undertaking in writing not to commit such irregularity in future vide his application dated 8.11.1984 (Annexure CR-6 to the Counter Reply). According to the respondents, an enquiry was held in accordance with rules and finally vide office letter dated 24.8.1985, he was found absent from duty from 19.7.1985 till date (24.8.1988) in an unauthorized manner. It is also mentioned that memorandum of charges was sent to the applicant by registered A.D. Post on his home address, but the same was returned with endorsement of Postman that addressee was not at home and that the applicant had gone to Kanpur. The respondents have filed other documents to show that all efforts were made to serve and inform the applicant to defend himself at that stage and documents on record, it is clear that

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the applicant did not act diligently/vigilantly. In the O.A., it is alleged that the applicant was not given due notice of the disciplinary action taken against him. In the circumstances, the applicant who was not getting his salary/emoluments ever since 1985/1988 was, in normal circumstances, expect to visit the office and make efforts for payment of his salary/ emoluments, but the applicant did not do so. It appears that the applicant filed an application dated 26.4.2005 and thereafter filed the present O.A. It is alleged that the applicant filed representations w.e.f. April, 2006 till the date of filing of O.A. Apparently this is by way of after thought and in order to stretch his facts to bring it. Obviously, it is being done to use it as cover up for his inaction for about 20 years. It is possible that the order is not being communicated, but there is no explanation as to why the applicant kept in ^{on quiet an.} waiting for long 15-20 years. Annexure-1 to the O.A. is the order dated 29.5.2006 deciding the representation of the applicant dated 25.4.2006. It shows that he himself applied for settlement vide his application dated 25.4.2006. This O.A. was filed on 13.12.2006. In the instant case, it is noticed that the applicant took eight months' time to file the present O.A., which is not appreciated. There is no reason to disbelieve the case of the respondents pleaded in their Counter Reply.

6. Besides above, the applicant should have ^{an for} better advised to apply ^{an for} the requisite order of his termination and then challenge the same by way of an appeal as provided under the Rules. The learned counsel for the

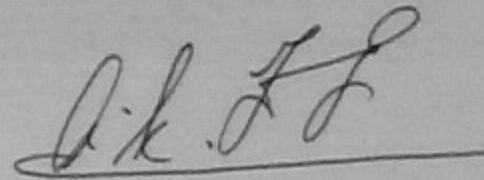
applicant has fairly conceded that the applicant did not file ^{an} ~~any~~ appeal against the order of the disciplinary authority.

7. In view of the above, the O.A. has no merit and is dismissed. No costs.



MEMBER-A

GIRISH/-



MEMBER-J