

(Reserved)

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

ALLAHABAD this the 13 day of July, 2015

Present:

**HON'BLE MR. SHASHI PRAKASH, MEMBER- A
HON'BLE DR. MURTAZA ALI, MEMBER - J**

ORIGINAL APPLICATION NO. 545 OF 2007

Hawaldar Singh, S/o Late Sarnam Singh, S & T Khalasi, North Central Railway Zone, Agra. Permanent R/o Village - Parua, Post & District - Muraina (MP).

.....Applicant.

VERSUS

1. Union of India through General Manager, North Central Railway, Allahabad.
2. Divisional Railway Manager, North Central Railway, Agra.
3. Divisional Railway Manager (P), North Central Railway, Jhansi.

.....Respondents

Present for the Applicant: Shri Satish Mandhyan
Present for the Respondents: Shri A.K Sinha

ORDER

(Delivered by Hon'ble Mr. Shashi Prakash, AM)

By way of the instant original application, the applicant has prayed for the direction to the respondents to allow him to join his duties as per fitness certificate and to pay regular salary. The applicant has also sought quashing of the order of his dismissal from service.

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2. Briefly, as per the O.A, the facts of the case are that the applicant was appointed as Khalasi on compassionate grounds by letter dated 13.04.1998. His appointment was on temporary basis. In the year 2001, the applicant fell sick and was under medical treatment. He was declared fit to resume duty only in the year 2005. He reported for duty on 18.08.2006 but was not allowed to join his duties. He preferred a representation for allowing duty as well as for payment of his salary. As per the O.A, the applicant was stopped from coming to duty only orally. Not having received any response on his representation, the applicant has filed this O.A for a direction to the respondents to allow him to join his duties and pay him salary.

3. In the Counter Reply, it has been stated that the O.A has been filed after a lapse of six years from the date of cause of action and it is accordingly time barred. Further, the applicant's services were dispensed with w.e.f. 31.07.2001 after conduct of full fledged inquiry under the Railway Servants (Discipline & Appeal) Rules 1968. During the conduct of inquiry the applicant was given full opportunity to defend his case. For this reason there is no infirmity in the order of dismissal passed against the applicant on 31.07.2001.

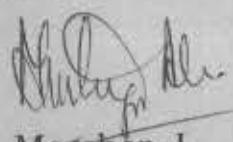
4. Head learned counsel for both sides and perused the pleadings.

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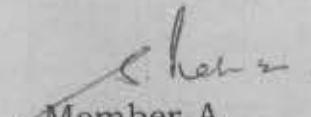
5. Despite the fact that the compassionate appointment is made against a regular post. In the case of the applicant, he was appointed on temporary basis against the post of Khalasi. However, the applicant was served with a charge sheet dated 27.10.1999 for his absence from 16.04.1999 till the date of the charge sheet. This is contrary to the averment made in O.A that the applicant remained absent from 2001-2005. From the proceedings at page 65 of O.A, it is seen that the charge sheet was received by the applicant. He was also informed about the dates of the inquiry from time to time by the registered post (page 70 and 72 of O.A). Finally the applicant was given intimation by letter dated 21.06.2001 (page 77 of O.A) that he should submit his defence within 15 days otherwise inquiry shall proceed ex-parte. As no response was received from the applicant, the Inquiry Officer proceeded ex-parte recording the fact of non-cooperation and non-participation of the applicant and based upon the available evidence established the charge against him. Taking into account the finding of the inquiry report by a speaking order the services of the applicant were dispensed with by order dated 31.07.2001 (page 80 of O.A). A copy of same was sent to the applicant by registered post dated 20.08.2001 (page 84 of O.A). In view of this established position the averment of the applicant that his services were terminated orally stands controverted.

A handwritten signature in black ink, appearing to read 'S. N.', is written over a diagonal line.

6. Keeping in view the above facts and circumstances as emerging out of annexures attached with the CA, it is clear that although the applicant was appointed against a temporary post yet for his unauthorized absence, a full fledged inquiry was conducted by the respondents and his services were dispensed with only thereafter. From the proceedings, it is clear that during the inquiry, the applicant did not cooperate or participate despite repeated intimation in this regard by the respondents. Given this position, the applicant has no case and therefore, the O.A is dismissed as devoid of merits.



Member-J.



Member-A.

Anand...