

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

O.A. 547 of 2000

Present : **Hon'ble Mr. B. N. Som, Vice-Chairman**
Hon'ble Mr. Justice B. Panigrahi, Vice-Chairman

Sambaru, S/o Dukhu,
R/o Vill. Jamsar, P.O. Chhatamakhna,
Via- Chandanbat, P.O. Bolangir.

VS

1. Union of India through the
General Manager, S.E.Rly. Garden Reach,
Calcutta-43
2. Div. Rly. Manager, S.E.Rly.
Sambalpur Div. Sambalpur
3. Asst. Engineer (A&N)
S.E.Rly. Sambalpur Division,
Sambalpur.
4. Divl. Engineer (DEN),
Sambalpur Division. Sambalpur.

.... Respondents

For the applicant : Mr. A.Kanungo, Counsel
Mr. S.R.Mishra, Counsel

For the respondents : Mr. R.C.Rath, Counsel

Heard on : 4.2.04 : Order on : 4.2.04

ORDER

Per Justice B. Panigrahi, V.C

In this application, the applicant has questioned the legality and validity of the order passed by the disciplinary authority removing the applicant from service.

2. The applicant joined railway service as a casual Gangman in the year 1987. He appeared before the screening committee and thereafter he was empanelled as Gangman. A charge-sheet was issued against the applicant on 19.1.96 for his unauthorized absence from duty from 9.10.95 to 30.12.95. The applicant claimed to have applied for leave during the period of absence. Subsequently also the applicant was absent from duty and he was asked to appear before the railway doctor, ^{who} on examination declared him fit. It appears that ~~the~~ an enquiry was conducted against the applicant in which the disciplinary authority himself acted as the enquiry officer. The applicant did not file any defence statement nor did he adduce any evidence in the enquiry. On conclusion of the enquiry, the disciplinary authority finally passed the impugned order of removal from service against the applicant vide order dt. 20.12.97 w.e.f. 8.12.97. It appears that the applicant preferred an appeal against the punishment order to the appellate authority which is still to be disposed of..

3. From the counter it is not known as to what happened to the appeal filed by the applicant. However, it is stated that the said appeal was not filed before the appropriate authority. Assuming that the appeal was not filed before the competent authority, it was for the respondents to send it before the competent authority for disposal in accordance with rules. But in this case, as it appears, no action has been taken by the respondents in this regard although they have admitted to have received the same.

4. From the stand taken by the applicant it is found that the applicant claimed to have remained on leave on medical ground. From the enquiry report it is not spelt out whether the stand taken by the applicant was true or only a pretext. However, since the statutory appeal is still pending, we do not intend to go into the merit of the case at this stage.

5. Accordingly, we dispose of this application with a direction to the appellate authority to consider and dispose of the appeal of the applicant within four months from the date of communication of this order after giving the applicant an opportunity of hearing and by passing a speaking and reasoned order. If the applicant is aggrieved by the appellate order to be passed, he will be free to approach appropriate forum for redressal of his grievance.

6. With the above observation the application is disposed of. No costs.


(B.N.SOM)
VICE CHAIRMAN


(B.PANIGRAHI)
VICE CHAIRMAN

JRC