

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 07.08.2000

O.A. No. 231/1997

Babu Lal Mali S/o. Shri Madan Lal aged about 45 years resident of Shyopura via Ratan Nagar Post Depalsar Distt. Churu, last employed on the post of CPC Cleaner under Loco Foreman, Northern Railway, Churu.

... Applicant.

versus

1. The Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Assistant Mechanical Engineer (L), Northern Railway, Bikaner Division, Bikaner.
3. Divisional Mechanical Engineer, Northern Railway, Bikaner Division, Bikaner.
4. Additional Divisional Railway Manager, Northern Railway, Bikaner Division, Bikaner.

... Respondents.

Mr. J.K. Kaushik, Counsel for the applicant.

Mr. R.K. Soni, Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman.

Hon'ble Mr. Gopal Singh, Administrative Member.

: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

This application is filed being aggrieved by the charge sheet dated 18.5.94 vide Annexure A/1, the order of the disciplinary authority dated 13.10.95 vide Annexure A/2 imposing penalty of removal from service, the order of the appellate authority dated 8.4.96 vide Annexure A/3 rejecting the appeal of the applicant and the order of the revisional authority dated 16.1.97 rejecting his revisional petition. The applicant con-



that the impugned order of his dismissal from service on the basis of these orders is illegal and without jurisdiction.

2. By filing reply, the respondents have supported the impugned charge sheet and the orders. In order to appreciate the rival contentions, we think it appropriate to note the few facts of the case. The disciplinary proceedings were initiated against the applicant on the ground that he was unauthorisidely absent almost for one year from 28.3.93 to 22.3.94 and he remained absent unauthorisidely even thereafter. As stated in the disciplinary proceedings order, notice regarding the enquiry was sent to the applicant, but he failed to attend the enquiry. Even the findings of the enquiry officer was sent to the applicant by registered post, which was duly acknowledged by him. But again he failed to submit his representation against the same. Thereafter, on the basis of the material on record, the disciplinary authority has passed the order of removal from service for the alleged unauthorised absence of the applicant with effect from 28.3.93 to 22.3.94. This order passed by the disciplinary authority vide Annexure A/2 has been confirmed by the appellate authority and revisional authority vide orders Annexure A/3 and A/4 respectively. However, it is contended on behalf of the applicant that the order has been passed without giving sufficient opportunities to the applicant to defend his case, and during that period earlier the applicant was sick and after his recovery, his wife was sick and therefore, he could not attend the office between 28.3.93 to 22.3.94. The contention of the applicant that since he was not well, he could not attend the enquiry. The fact also remains on record, as stated by the respondents in their reply paragraph 4.2, that the applicant never applied for the leave to the respondents during the alleged unauthorised absent. It is stated in reply, that on 5.4.93, the applicant appeared before the Senior Subordinate Loco Foreman, Churu, and the applicant was directed to report for duty to the Assistant Mechanical Engineer (L), Northern Railways Bikaner Division (respondent No.2) on 5.4.93, but the applicant did not do so. It was, in these circumstances, a charge sheet was issued to

applicant on 30.12.93. It is stated in paragraph 4.3 of the reply that the applicant himself remained absent during the enquiry, after the receipt of the said charge sheet. A notice was issued to the applicant, but he did not appear before the enquiry officer during the enquiry. The respondents also have filed Annexure R/2, a letter dated 19.8.94 sent by the applicant, stating that he does not wish to have the enquiry conducted. From this fact, it is clear that the applicant himself did not participate in the enquiry. Both the appellate authority as well as the disciplinary authority stated that ample opportunities were given to the applicant, but the applicant himself did not avail of these opportunities. In these circumstances, we do not think that it is a case for our interference.

3. From the above facts we find that the applicant was unauthorisidely absent for nearly one year. He never sent any leave application at any time on any ground. The contention of the applicant that even during that period earlier he was sick and thereafter, his wife was sick, is the one cannot be accepted on the basis of the material on record. He even did not produce any medical certificate before the enquiry officer. But, he chose to remain absent during the enquiry for the reasons best known to him. In these circumstances, we do not find any iota of merit in this case. Accordingly, we pass the order as under:-

"Application is dismissed. But in the circumstances, without costs.

Gopal Singh
(GOPAL SINGH)

Adm. Member

B.S. RAIKOTE
(B.S. RAIKOTE
Vice Chairman

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Part II and III destroyed
in my presence on 8/11/07
under the supervision of
Section Officer (as per
order dated 10/11/07)

Section Officer (Record)