

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JODHPUR BENCH, JODHPUR

O.A. No. 30/1999

Date of order: 17.5.2002

Uda Ram son of Shri Chunni Lalji, aged about years, resident of Near gate of Krishni Mandi, Mandore Road, Jodhpur, Last employed on the post of Loco Cleaner in the office of Loco Shed, Jodhpur, Northern Railway.

...APPLICANT

versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. The Joint Director Estt, (D&A), Railway Board, Rail Bhawan, New Delhi.  
Assistant Mechanical Engineer (P), Northern Railway, Jodhpur Division, Jodhpur.

...RESPONDENTS

Mr. J.K. Misra, counsel for the applicant.  
Mr. Kamal Dave, counsel for the respondents.

CORAM:

HON'BLE MR. JUSTICE O.P. GARG, VICE CHAIRMAN.

HON'BLE MR. A.P. NAGRATH, ADM. MEMBER

( ORDER )

( Per Hon'ble Mr. Justice O.P. Garg, Vice Chairman )

This is the third occasion on which the applicant has approached this Tribunal by filing frivolous O.A.

.. 2 ..

under Section 19 of the Administrative Tribunals Act, 1985. Brief history of the case is that the applicant was employed as Loco Cleaner in the Railway Department. He remained absent from duty in an unauthorised manner during the period 17.2.1978 to 25.4.1984 i.e. for a period more than six years. Consequently, it was decided by the Competent Authority to initiate departmental enquiry against the applicant. A charge-sheet dated 24.8.83 was served on him. The applicant did not participate in the enquiry, which proceeded ex-parte. Ultimately, an order of removal of the applicant from service was passed on 25.4.1984. The applicant did not file any departmental appeal. Thereafter the applicant applied for payment of the balance amount of the Provident Fund which was to his credit in his account. The entire amount of Provident Fund was paid to the applicant in the year 1990 itself. The applicant challenged the order of removal by filing O.A. No. 38/1994 which was dismissed by this Tribunal on 28.4.1994. Thereafter, subsequently the applicant applied that he may be allowed the compassionate pension. The departmental authorities considered the matter and rejected the prayer of the applicant by order dated 17.10.1994. This order was challenged by the applicant by filing OA No. 427/1994. After taking into consideration the facts and circumstances of the case, the said OA was dismissed on 23.8.1995 and the order passed by the departmental authorities that the applicant was not entitled to compassionate pension was upheld. The above facts indicate that the applicant has accepted the

order of removal passed against him in the year 1984 for atleast two reasons that he himself had applied for release of the amount outstanding in his account under the <sup>head</sup> Provident Fund and that he applied for compassionate pension.

2. It appears that the applicant moved a Review Petition, which was rejected.

3. The present OA has been filed by the applicant on 01.02.1999. In this O.A., the applicant has challenged the provisions of paragraph 2014 of Indian Railway Establishment Code, which provide that if Railway employee is absent in an unauthorised manner continuously for a period of more than 5 years, he shall automatically stand removed from service. The applicant has no locus standi to challenge the aforesaid provision. The said provision has undergone a sea-change and as it exists in the amended form cannot be said to be unfair or discriminatory. The purpose for which this provision has come to be made is quite laudable and is necessary to deal with the employees who absent themselves in an unauthorised manner and adopt a casual attitude towards their employment. We do not find that the provision which has been challenged by the applicant requires to be ~~interv~~dicted by us. This O.A. is not maintainable not only at the instance of the applicant but is also devoid of merits. It is dismissed without any order as to costs.

*.....*  
(A.P. NAGRATH )  
Adm. Member

*Gf*  
( JUSTICE O.P. GARG )  
Vice Chairman

R/C/C  
2/18

Part II and III destroyed  
in my presence on 13.2.07  
under the supervision of  
section officer ( ) as per  
order dated 14/1/2007

Section officer (Record)

Recd  
1/2007