

**Central Administrative Tribunal  
Lucknow Bench**

OA No.81/2005

Lucknow this the 16<sup>th</sup> day of March, 2009.

**Hon'ble Mr. Shanker Raju, Member (J)  
Hon'ble Dr. (Mrs.) Veena Chhotray, Member (A)**

Rabbul Hussain, aged about 32 years, son of Shri Mazhar, R/o Sahabganj, Police Station Kotwali Nagar, District Gonda, presently resident of Khalasi Railway Station, Nanpara, District Bahraich.

-Applicant

(By Advocate -None)

**-Versus-**

1. Union of India, through General Manager, North Eastern Railway, Gorakhpur.
2. Additional Divisional Regional Manager (Karmik/Cadre), Lucknow.
3. Divisional Electrical Engineer, Gonda.
4. Assistant Divisional Electrical Engineer, Gonda.

-Respondents

(By Advocate Shri N.K. Aggarwal)

**O R D E R (ORAL)**

**Mr. Shanker Raju, Member (J):**

None appears for the applicant when the matter was called out. The matter is proceeded ex parte against applicant in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987 for want of proper assistance.

2. Applicant, who has been convicted on rape charge and preferred an appeal before the High Court of Judicature at Lucknow, the sentence was suspended. This does not obliterate the applicant from the criminal charges. A show cause notice

under Rule 14 (1) of the Railway Servants (Discipline & Appeal) Rules, 1968 was issued on the basis of the conduct of the applicant, which led to criminal conviction on being considered he has been imposed a punishment of removal, against which the appeal is rejected. It is pertinent to note that against the conviction applicant's appeal is yet to be decided. It is trite in view of the decision of the Apex Court in **Union of India and others v. Ramesh Kumar**, 1997 (7) SCC 514 on pending appeal against the conviction one cannot be reinstated in service but on outcome of the appeal if one is exonerated he would be put back with all consequences in law. Accordingly, this OA stands disposed of at the present with a direction that the outcome in the criminal appeal filed by the applicant the respondents shall consider the claim of applicant in accordance with law. No costs.

*Chhotray*

(Dr. Veena Chhotray)  
Member (A)

*S. Raju*

(Shanker Raju)  
Member (J)

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Revised 08-3-09*