

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

Lucknow this the 9th day of Jan. 1996.

O.A. No. 324/90

HON. MR. V.K. SETH, MEMBER(A)

HON. MR. D.C. VERMA, MEMBER(J)

Chandra Pal Yadav, son of Sri Maikoo Lal
resident of Kirit Khera, Lucknow.

2. Harish Chandra son of Chattey Lal,
resident of C-3/7, Geeta Palli Alambagh,
Lucknow.

Applicants.

By Advocate Shri K.P. Srivastava.

versus

1. Union of India through General Manager, N.
Rly. Baroda House, New Delhi.

2. Divisional Railway Manager, N. Railway,
Hazratganj, Lucknow.

3. Chief Depot Officer, N. Rly. Charbagh,
Lucknow.

Respondents.

By Advocate Shri Anil Srivastava.

O R D E R (ORAL)

HON. MR. V.K. SETH, MEMBER(A)

By this O.A. the applicants have prayed
for a direction to the respondents to pay the
salary for the suspension period from 23.10.89
to 30.11.89 and also to pay compensation for
withholding the subsistence allowance as well
as salary for the suspension period.

2. The respondents have contested the claim
of the applicants. Pleadings have been
exchanged between the parties. We have also

LE

heard the rival contentions of the two sides led by their learned counsel during the course of hearing.

3. the applicant No. 1 was Fitter grade I ticket No. 204. In respect of the ~~xxxxxx~~ applicant No. 2 the learned counsel stated that his grievance has already been redressed. He does not wish to press the claim of the applicant No. 2.

4. The applicant No. 1 was placed under suspension with effect from 23.10.89 and the same was revoked on 30.11.89. The applicant was proceeded against and awarded a minor penalty of withholding of his increment for three years.

5. The stand of the respondents is that during the period of suspension it was incumbent upon the applicant to attend the office daily. It was also^{urged} that this period of suspension could not be treated as duty unless a certificate was furnished by the applicant to the effect that he did not engage himself in any other employment, business etc. As against this, the argument of the learned counsel for the applicant is that the rules did not require the applicant to attend the office during the period of suspension and further that Railway Board's instructions enjoined that ~~whether~~^{re} the departmental proceedings against a suspended employee ended in imposition of minor penalty, the period should be treated automatically as duty.

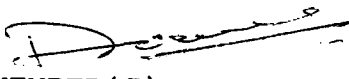
6. A perusal of the instructions contained in letter dated 31.5.1983 shows that an


employee under suspension is not required to attend to his work but he cannot leave his headquarter without prior permission. It is also indicated that there is no question of his giving daily attendance and marking presence. This, therefore, effectively negates the arguments of the respondents regarding daily attendance by the applicant during the period of suspension. As regards the period being treated as duty, we were taken through the instructions dated 21.3.1987 as reproduced on page 42 of Railway Servants(Disciplines and Appeal) Rules (4th Edition, Behri Brothers.) According to these instructions of the Railway Board where departmental proceedings against a suspended employee for the imposition of major penalty^{finally end with the imposition of minor penalty,} the suspension can be said to be wholly unjustified in terms of F.R. 54 B.

7. Corollary of these instructions would be that where an employee is proceeded against only for minor penalty, suspension should not be normally resorted to. Another aspect in the present case is that in the case of the second applicant, on his furnishing a certificate regarding his having not engaged himself in any employment etc. the period of his suspension was regularised. Since the applicant No. 1 has so far not furnished the certificate as required under rules, for the period of suspension, he may furnish the same within a period of 2 weeks from the date of communication of this order, the respondents

therafter, within a period of one month shall pass suitable orders regularising the period in terms of Railway Board Instructions of 21.3.1987.

8. The O.A. is disposed of in the ab-ove terms with no orders as to costs.


MEMBER(J)


MEMBER(A)

Lucknow; Dated: 9.1.96

Shakeel/