

**CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW**

ORIGINAL APPLICATION No 115 OF 2004

THIS, THE 12TH DAY OF SEPTEMBER, 2005

HON'BLE SHRI SHANKER RAJU MEMBER (J)

HON'BLE SHRI S.P. ARYA MEMBER (A)

S.Hassan Raza aged about 43 years s/o Shri Fayaz, R/o H.No. 14 Ganga Ram Colony Sa-adat Ganj Lucknow.

Applicant.

By Advocate Shri M.A.Siddqui.

Versus

1. Union of India through the General Manager North Eastern Railway Gorakhpur U.P.
2. The senior D.E.N. North Eastern Railway Ashok Marg Lucknow.
3. Assistant engineer North Eastern Railway Sitapur U.P.

-Respondents:

By Advocate: Shri Deepak Shukla for Shri Prashant Kumar.

ORDER(ORAL)

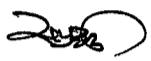
BY HON'BLE SHRI SHANKER RAJU MEMBER(J)

By virtue of this application, penalty of dismissal inflicted vide order dated 8.1.96 and appellate order dated 18.2.2003 have been assailed.

2. On the ground of absence of applicant, he was proceeded ex parte on the finding of guilt, the punishment was imposed.

3. O.A. 257/2002 filed by the applicant was disposed of on 21.9.2002 which culminated into an appellate order.
4. Though several grounds have been raised but , at the outset we find that before the punishment was inflicted upon applicant, copy of the enquiry report sent to applicant has come back undelivered with the remarks that the addressee is not found. This is not disputed on either side.
5. Deeming it to be service applicant was imposed a major penalty of dismissal from service.
6. In the light of the decision of the Apex Court in Dinanath Shantaram Karekar Vs. UOI 1998 (7) SCC 569, it was held that when the report of service through post is that the addressee is not found it would not be a valid legal service.
7. In the light of the above as the enquiry report has not been served upon applicant the additional material in the form of conclusion of enquiry officer acted as an additional material which has been considered by the disciplinary authority while inflicting the punishment caused prejudice to applicant, which is denial of principles of natural justice.
8. On this ground alone the punishment as affirmed in the appeal cannot be sustained in law for violation of principles of natural justice.
9. In the result, for the foregoing reasons, OA is partly allowed. Impugned orders are set aside. Respondents are directed to forthwith reinstate applicant in service. However, respondents are directed to

serve applicant a copy of the enquiry report and thereafter on receipt of his representation pass a detailed and speaking order. The intervening period from the date of dismissal till re-instatement shall be regulated in accordance with rules and instructions on the basis of the order passed by the respondents. No costs.



(S.P. ARYA)

MEMBER (A)



(SHANKER RAJU)

MEMBER(J)

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