

Central Administrative Tribunal, Lucknow Bench, Lucknow.
O.A. No. 418/2006

This the 22nd day of July, 2008

Hon'ble Shri A.K.Gaur, Member (J)
Hon'ble Dr. A.K.Mishra, Member (A)

Laxmi Narain Govil (L.N. Govil) aged about 62 years son of late Shyam Bahadur Lal Govil, r/o 268/641/1, Saria Mill Tilak Nagar, Lucknow

Applicant

By Advocate Sri A.Moin

Versus

1. Union of India through the Chairman, Railway Board, Govt. of India, Ministry of Railways, Rail Bhawan, New Delhi.
2. The Secretary, Railway Board, Rail Bhawan, New Delhi.
3. The Executive Director, Civil Engineering (Planning) Railway Board, Rail Bhawan, New Delhi.
4. Director Establishment (D&A), Ministry of Railways, Railway Board, New Delhi.

Respondents

By Advocate: Sri Azmal Khan

ORDER (ORAL)

By Hon'ble Sri A.K. Gaur, Member (J)

We have heard Sri A.Moin, learned counsel for applicant and Sri Azmal Khan, Learned counsel for the respondents.

2. The applicant entered in the Indian Railway Service on 4th July, 1968 as an Apprentice Inspector of Works, later on re-designated as Permanent Way Inspector. . The learned counsel for applicant has submitted that this O.A. has been filed by the applicant on the ground that the impugned punishment order has been passed on the enquiry conducted by a retired Railway employee.

3. Sri Azmal Khan, learned counsel for the respondents raised few preliminary objections; i) that retired Railway officer is permitted to hold an enquiry and ii) learned counsel for respondents also submitted that applicant has never raised this objection at any stage either in the O.A. or in the appeal preferred to the Appellate Authority or before any authority.

4. Learned counsel for the applicant has placed reliance on a decision of this Tribunal rendered in *Alok Kumar Vs. UOI and others (O.A. No. 458/2006 decided on 26th day of November, 2007)*, wherein this Tribunal after a careful analysis of the

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case has clearly observed that retired Railway employee cannot be appointed as a Enquiry Officer. Moreover in paras 9,11 and 12 of the judgment, the Tribunal has elaborated the issue dealt with, in ^{that} the present case.

5. We have carefully considered the decision rendered by the Hon'ble Supreme Court in 2005 SCC (L&S) 882, *Ravi Maik Vs. National Film Development Corporation* and thorough perusal of Rule 9 of the Railway Servants (Disciplinary and Appeal) Rules makes it clear that a retired railway person cannot be appointed as an enquiry officer.

6. In our considered view, the arguments advanced by Sri Moin is tenable in law and impugned order deserves to be quashed. Accordingly impugned order is quashed with liberty the disciplinary authority to get the enquiry held afresh from the stage of nominating a new enquiry officer. No order as to costs.


Member (A)

HLS/-


Member (J)