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UPPER ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH
LUCKNOW.

T.A. No. 3 of 1990

(Writ Petition No. 1632 of 1979)

Jag Lal

Petitioner

versus

Union of India & Ors.

Respondents.

Hon. Mr. Justice K. Math, Vice Chairman.

Hon. Mr. M. Y. Priolkar, Adm. Member.

(By Mr. M. Y. Priolkar, Adm.)

This is the Original Writ Petition No. 1632 of 1979, which on transfer to this Tribunal by the Lucknow Bench of the Allahabad High Court, has been renumbered as Transferred Application No. 3 of 1990. The grievance of the petitioner, who is a railway employee, is that he was dismissed from service in 1975 and after a suo moto review by the administration, he was again re-appointed on the same post on 24.7.78 but in the lowest pay in the grade into which he was reinstated with full benefits of past service, back wages, seniority etc. The petitioner, who had joined the North Eastern Railway on 17.3.69 was dismissed from service while working as a Junior Engineer at Lucknow by order dated 8.7.1975 of the Senior Divisional Mechanical Engineer, Lucknow under Rule 14(ii) of the Discipline and Appeal Rules, 1955. He appealed on 28.7.1975 against the dismissal order and was reinstated by the Divisional Superintendent on 11.11.75.

review, petition dated 29.5.1976 was also rejected by the General Manager on 14.4.1977. On 12.7.1978, however, the General Manager himself reviewed the petitioner's case and approved his appointment as Fitter at the lowest pay in the grade. The petitioner claims that after joining his duties on 22.7.1978 he submitted a representation dated 23.5.1979 to General Manager requesting for reinstatement with full benefits insured of re-appointment at the lowest pay in the grade. The respondents in their court re-affidavit have, however, denied that any such representation was made by the petitioner.

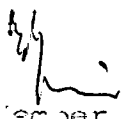
3. In the present petition, the petitioner contends that the dismissal order dated 8.7.1975 is null and void and also as per the law applicable to his case, his initial pay on re-appointment shall not be less than the pay drawn last and on any previous occasions. But he has not cited any authority or explained the grounds in support of these contentions. Even in his representation dated 23.5.1979 (Annexure No. 7) which he claims to have submitted to the General Manager, no plea is taken that the dismissal order is illegal or that the pay on re-appointment cannot be at the lowest stage in the grade. During the trial within, the learned counsel for the petitioner relied on two judgments, one of the High Court and the other of this Tribunal (Allahabad Bench), in support of his prayer for quashing the dismissal order dated 8.7.1975 and for re-instatement with full benefits. In the writ petition No. 218 of 1977 decided by Allahabad High Court, Lucknow Bench on 28.4.1978 (unreported), the impugned

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order of dismissal from service passed against the petitioner in that case had been quashed for the reason that no order of removal from service could be passed against a railway employee under Rule 14(ii) unless an opportunity of showing cause to the penalty proposed is given to the employee concerned. In our view, this judgment will not help the present petitioner, since as we have already stated above, he had not taken this plea of denial of opportunity any time earlier and it is now too late to raise this contention against a dismissal order of 1975.

4. In the second judgment filed by the petitioner, the Allahabad Bench of this Tribunal in P.N. No. 423 of 1987, (unreported) had quashed an order of premature retirement under Rule 2046 (h) of the Railway Code since the statutory requirement of three months' notice or three months pay in lieu of notice had not been fulfilled in that case. This judgment is, therefore, of no relevance to the present case. One additional reason given in that judgment, namely that the petitioners in that case were not retained in public interest but for certain other considerations will also have applicability ^{only to the} ~~other~~ facts of that case. This judgment can also, therefore, be of little assistance to the present petitioner.

5. On the basis of the foregoing discussion, we see no merit in this petition, which is accordingly dismissed, with no order as to costs.


A.M. Member.

15-11-90


Vice Chairman.

Lucknow Dated: 15 November, 1990.