

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

O.A. NO.615 of 1996

Date of order 26.2.2002

Brijesh Kumar Shukla

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Applicant

-versus-

1. Union of India through the secretary, Department of Posts, New Delhi.
2. The Chief Postmaster General, Bihar Circle, Patna.
3. The Postmaster General, South Bihar, Ranchi.
4. Sri Raj Kumar Singh, son of Late Kamta Singh, village Lodhway, P.S. Fatehpur, District Gaya, at present posted as Sr. Supdt. Posts, Chapra.
5. The Supdt. Posts, Rohtas Division, Sasaram.

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Respondents

For the applicant -- Applicant-in-Person

Counsel for the respondents.. Mr. H.P. Singh

PRESENT: The Hon'ble Mr. Justice B.N. Singh Neelam, V.C.

The Hon'ble Mr. L.R.K. Prasad, Member (A)

O R D E R

(Dictated in Court)

Justice B.N. Singh Neelam, V.C.:

The applicant is heard in person. The official respondents are being represented by the learned Counsel, Shri H.P. Singh, also heard.

2. By looking into the record, it transpires that initially this O.A. was so filed against the order of transfer dated 29.5.1995 (Annexure-1 (1)) by which the applicant was transferred from Matwar to Sasaram. The case of the applicant is that order of transfer was arbitrary and so passed with malice and further more the applicant was on medical leave because of ailment from 6.6.1995 to 9.10.1995 which on no account, in such circumstances, would have been treated as unauthorised absence, rather that would have been treated as medical leave and the departmental proceeding was initiated without giving any opportunity to the applicant, ^{to be heard &} being ex parte, order was so passed, that too, of the removal of the applicant

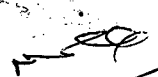
from service and the said order of removal is dated 13.1.1998, a copy of which is marked as Annexure-MA A/1 in M.A.98/98. It is also the case of the applicant that the order of removal, by the plain reading of it, can well be said shocking to the conscience, being passed arbitrarily and the punishment so awarded also on no account can be said to be proportionate to the article of charges levelled against the applicant. In support of his contention, it is also pointed out that to this effect one affidavit was filed, which is marked as Annexure-13 of the O.A. giving details with regard to the applicant being deprived of giving opportunity as to present his case in course of departmental proceeding. The prayer particularly so made at para 8 is that the order of removal be thus quashed in the background of the facts and circumstances of the case along with the order of transfer which is dated 29.5.1995.


3. On behalf of the official respondents with regard to the direction so given for filing W.S. in the background of the removal order so passed on 13.1.1998, it is submitted that the same has already been filed. In reply to that as far as applicant is concerned, it is submitted that Annexure-13 of the O.A. will suffice for the purpose, which may be treated as reply to the W.S. so filed on behalf of the respondents. It is admitted fact that the instant case, not being preferred against the order of removal so passed by the disciplinary authority on 13.1.1998.

4. After hearing both sides and also after looking into the record and M.A. so filed, keeping into consideration the averments so made on behalf of

both the parties and particularly taking into account the W.S. so filed, we hold that this O.A. can be well disposed of at this stage with a direction to the applicant to file representation by way of memo of appeal before the appellate authority incorporating all the points so put ⁱⁿ this O.A. for consideration and the same be filed within 45 days from today, and in such circumstance, the appellate authority shall look into the matter, scrutinise and consider the points so raised for consideration as also detailed in course of argument incorporated in this ^{order} ~~O.A.~~ and dispose ^{of} ~~the same~~ within reasonable time by passing speaking order in accordance with law,

5. As regards the appeal preferred belatedly, in the background of the case that the matter ^{is} ~~being~~ pending before us and amendment petition filed in the ~~O.A.~~ for consideration and orders so passed by which the applicant got removed from service, the appeal be disposed of in the hands of the concerned respondent that is, appellate authority, within ninety days from ^{and in delay in filing the appeal be waived} the date of receipt of the appeal, while disposing of the appeal, if the applicant so desires, he may also be given personal ^{or audience for} ~~attendance~~ detailing his stand. Parties to bear their own costs. The applicant has also undertaken to co-operate fully before the appellate authority. This O.A. is disposed of, accordingly.


(L.R.K. Prasad)
Member (A)


(B.N. Singh Neelam)
Vice-Chairman