

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA.

O. A. No. 58 of 1996

Date of Order : 3/5/04. 2001.

Gangotri Ram, S/o Late Sahdeo Ram, resident of the Village & P. O. -Dighwar, District-Saran (Chapra), at present a Mail Driver at Sonpur under the D.R.M. (Operating), N.E.Railway, Sonpur. Applicant.

-Versus-

1. Union of India represented through the General Manager, N.E.Railway, Gorakhpur. (U. P.).
2. The Chief Operations Manager, N.E.Railway, Gorakhpur. (U. P.)
3. The Divisional Railway Manager, N.E.Railway, Sonpur. Respondents.

Counsel for the applicant : Shri R.K. Jha
Counsel for the respondents : None

C O R A M


Hon'ble Shri Lakshman Jha, Member (Judicial)

Hon'ble Shri L.Hmingliana, Member (Admn.)

O R D E R

L.Hmingliana, Member (Admn.) :-

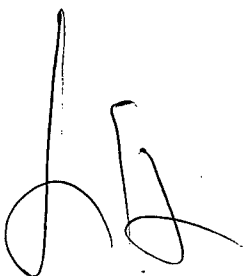
This O.A. filed by a Mail Driver under the Divisional Railway Manager, N.E.Railway, Sonpur is in substance for treating the period from 23.2.1988



to 8.11.1991 as duty period for all purposes.

2. 23.2.1988 was the date from which the applicant was removed from service after departmental enquiry and 8.11.1991 was the date up to which he was rendered out of work before his reinstatement in service as per the order of the appellate authority.

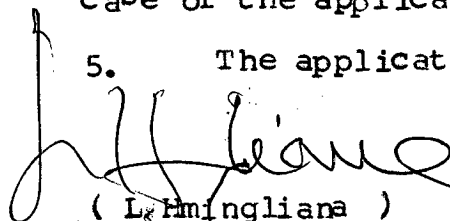
3. Departmental Enquiry was held against the applicant under Indian Railways Servants (Discipline and Appeal) Rules and he was initially imposed the penalty of reduction to the lower post of Driver (A) for the period of two years. The appellate authority enhanced the penalty and ordered his removal from service w.e.f. 23.2.1988. On the ^{second} appeal filed by him, the Chief Operations Manager, N.E. Railway, Gorakhpur ordered his reinstatement in service, but treating the period from 23.2.1988 when he was removed from service till his reinstatement as leave without pay, to be converted into leave due in case he made application for that purpose. The Divisional Railway Manager, Sonpur reinstated him in service by order dated 7.11.1991. The applicant filed O.A. No. 95/92 and the Tribunal by order dated 1.7.1994 directed the Chief Operations Manager to take necessary action with regard to payment of pay and allowances in the light of the observations made in the order and rules within a period of four months. The applicant submitted a representation dated 29.7.1994 along with

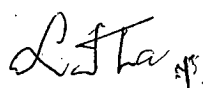


the copy of the order of the Tribunal. The Chief Operations Manager vide letter dated 13.2.1995 asked for further representation if any from the applicant and the applicant again submitted another representation on 22.2.1995. Then the Chief Operations Manager ordered that the period of absence should be treated as leave without pay vide order dated 21.12.1995, which is at Annexure-A/5. It is stated in the order that the applicant was given a personal hearing on 23.6.1995 and his written representation was also taken into consideration. The main contention of the applicant was that he was acquitted of the criminal case filed against him that in the order for his reinstatement and it was mentioned in the order his reinstatement that he had undergone mental trauma and financial loss/harassment which was sufficient for his lapses and according to his interpretation no penalty was inflicted on him.

4. We find the order passed by the Chief Operations Manager dated 21.12.1995 to be a speaking and clear order. Sub para (2) and (3) of para 2044 of the I.R.E.M., which is the same as F.R. 54 is not applicable to the case of the applicant. Then the applicant has to fail.

5. The application is dismissed. No costs.


(L. Hmingliana)
Member (Admn.)


(Lakshman Jha)
Member (Judicial)

MES.