

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

OA 124 of 06

C O R A M

Hon'ble Shri Shankar Prasad, Member [A]
Hon'ble Ms. Sadhna Srivastava, Member [J]

Trishul Dhari Singh S/o Late Baijnath Singh
Vs.
Union of India & Others

Counsel for the applicant : Shri S.K. Singh
Counsel for the respondents : Shri R.N. Choudhary

ORDER [Oral]

16.05.2008

Shankar Prasad, M [A] :- Aggrieved by order dated 14./23.01.03 of Senior DCM, E.C. Railway, Mughalsarai, removing him from service with immediate effect and that of appellate authority confirming the same vide order dated 7.11.03, the applicant has preferred the present OA.

The orders of the disciplinary authority are as under:-

" After considering order of the Hon'ble Spl. Judge, CBI/ Patna dated 19.4.2002 I have come to the conclusion that you are guilty of the charges framed against you under Spl. Case No. 9 of 1988 [R.C. 46 / 87 and 45 / 87] before court of Spl. Judge, CBI, Sought Bihar, Patna and you are removed from service with immediate effect.

One copy of the orders of Hon'ble Spl. Judge, CBI / South Bihar, Patna dt. 19.4.2002 which is self-explanatory is enclosed herewith."

2.

The appeal has also been decided, without considering various

grounds raised in the appeal petition, by one line order.

3. We have heard both sides. Subsequent to the decision of the Apex Court in *Tulsi Ram Patel vs. Union of India*, the Railway Servants [Discipline & Appeal] Rules was amended vide RB 259/87 dated 26.10.1987. this amendment reads as follows:- “ provided that the railway servant may be given an opportunity for making representation on the penalty proposed to be imposed before any order is made, in case of final order.

4. It would, thus, appear that the disciplinary authority had not complied with the these rules before passing the impugned order. The appellate authority has also not considered this aspect while deciding the appeal.

5. Learned counsel for the applicant has placed reliance on the decision of Hon'ble Punjab and Haryana High Court in the case of *Sham Singh vs. Punjab State* ; 2005 [2] ATJ 14.

A perusal of the aforesaid judgment shows that the rule like proviso to Rule quoted in the rule being followed in the State of Punjab was not the subject matter of the said decision. The only matter was as to whether on conviction in a criminal case, it is necessary to hold a detailed departmental inquiry. This aspect was answered in positive. The said judgment is, accordingly, distinguishable.

6. Another contention raised by learned counsel for the respondents is that the OA has been preferred after a long lapse of time. The Apex Court in the case of *Mostt. Katijee vs. Dy. Collector, Annantnag*, AIR 1987 SC 1353 has held that the meritorious claim should not be defeated on the grounds of limitation. It can at best have implications regarding payment of arrears.


7. We accordingly quash and set aside the orders passed by disciplinary authority dated 14/23.1.03 and appellate authority's order dated 7.11.03 and remit the matter back to the disciplinary authority to proceed in accordance with law. The decision regarding intervening period shall be taken by the disciplinary

authority in accordance with rules and regulations. The exercise may be completed within three months of the receipt of copy of this order.

8. The OA stands allowed, accordingly, without any order as to the costs.


[S. Srivastava] M [J]

/cbs/


[S. Prasad] M [A]