

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH,
JAIPUR.
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Date of Decision: May 11, 1993.

OA 858/89

SH. GANPAT LAL GORA

... APPLICANT.

Vs.

UNION OF INDIA & ORS.

... RESPONDENTS.

CORAM:

HON. MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.

HON. MR. O.P. SHARMA, ADMINISTRATIVE MEMBER.

For the Applicant

... IN PERSON.

For the Respondents

... NONE.

JUDGEMENT (ORAL)

(DELIVERED BY HON. MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN)

The applicant was removed from service vide order dated 12.9.75 (Annexure A-1). An appeal was preferred against the order of removal, which was rejected by the Appellate Authority and the matter came before this Tribunal. This Tribunal, vide their order dated 7.6.89 (Annexure A-17), remanded the case to the Appellate Authority with a direction that the Appellate Authority should give a personal hearing to the applicant and should thereafter decide the matter afresh. Only the Appellate Order was set aside.

2. The applicant submitted an application dated 1.7.89 (Annexure A-22) to the Appellate Authority stating therein that he would not like to argue the appeal on

Heard

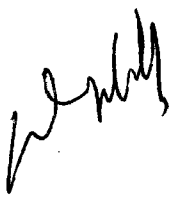
merits and would also not raise a point of law or violation of the rules. He only wanted that he should be given some benefits so that he can come out of his financial crisis. The applicant, who is present in person, argued his case and submitted that he is ready to forgo his back wages. All that he wants is that he should be reinstated.

3. We have gone through the Appellate Order dated 6.9.89 (Annexure A-19). There is a mention in para 7 of the said, which is as under :

"Incidentally, I find from the file that Shri Ganpatlal was given an opportunity of person hearing alongwith his Defence Council by the Appellate Authority on 17.11.75 before the appeal was disposed of. This has been recorded on file."

Apparently, therefore, the appeal was heard by one officer, and decided by other officer. On behalf of the Railways none was present. Facts of the case show that the applicant wanted advance TA but he was not granted TA advance, so he remained absent. This absence resulted in his removal from service. We, therefore, find that the appeal has not been decided properly, in accordance with the directions of this Tribunal.


4. We have considered the other aspects of the case and we are of the view that the interests of justice will be served if the applicant is reinstated without the benefit of back wages. The orders of the Disciplinary Authority and the Appellate Authority are modified suitably so that the applicant be reinstated with immediate effect in service. However, he will not be entitled for any back wages from the date of removal to the date of his joining back in service. The consequential order, enabling the applicant



to join service will be passed within one month from today.

5. As far as continuity of the service and the pensionary benefits on retirement are concerned, the applicant will be entitled to these benefits. However, he will not be entitled to claim any benefit of promotion and will also not be entitled to the benefits extended to his juniors on account of the removal order, during the intervening period from 1975 to 1993. The applicant should obtain a copy of this order and should submit the same before the Disciplinary Authority i.e. DRM, Ajmer, so that the authorities can pass necessary orders immediately.

6. The OA is disposed of accordingly with no order as to costs.


(O.P. SHARMA)
MEMBER (A)


(D.L. MEHTA)
VICE CHAIRMAN

VK.