

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,  
JAIPUR.

Date of Decision: 12/4/2002

OA 38/98

1. Virendra Singh Pippal (Deceased)

1/1 Smt. Sakuntala Devi w/o late Virendra Singh Pippal

1/2 Bharat Singh s/o late Virendra Singh Pippal

1/3 Miss. Raj Rani d/o late Virendra Singh Pippal

1/4 Harish Kumar s/o late Virendra Singh Pippal

1/5 Mamta Pippal d/o late Virendra Singh Pippal

1/6 Babita d/o late Virendra Singh Pippal

All residing at Forty Quarter Railway Colony, Quarter No. 615-1-A, Gangapur City.

... Applicants

VERSUS

1. Union of India through General Manager, W/Rly, Churchgate, Mumbai.

2. Sr. Divisional Operational Supdt., DRM Office, W/Rly, Kota.

3. Divisional Operational Supdt., Kota.  
DRM Office, W/Rly, Kota.

... Respondents

CORAM:

HON'BLE MR. A. P. NAGRATH, ADM. MEMBER

HON'BLE MR. J. K. KAUSHIK, JUDL. MEMBER

For the -Applicants

... Mr. S. C. Gupta

For the Respondents

... Mr. T. P. Sharma

O R D E R

PER HON'BLE MR. A. P. NAGRATH, ADM. MEMBER

This OA had been filed by late Shri Virendra Singh Pippal, challenging the order of his dismissal from service. This order had been issued on 22.5.95 and has been filed as Ann.A/(V) to the OA. During pendency of this OA, the original applicant unfortunately expired on 5.11.2000. Subsequently, his legal heirs have been brought on record and this application is now being pursued on his behalf by his wife, Smt. Sakuntala Devi, the present applicant.

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2. We have heard the learned counsel on either side and also perused the entire record.

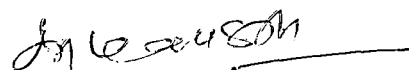
3. The learned counsel for the applicant submitted that the applicant had been put off duty on 15.9.92 without disclosing any reason. Against this, the applicant filed OA 34/94 with a prayer that he be allowed to resume his duties. This prayer was allowed and the non-applicant was directed to dispose of his representation dated 13.9.93 within a period of one month from the date of receipt of the order. When he pursued the matter further, he had to file a CP No.57/94. In reply to this petition, the respondents filed an affidavit enclosing a letter dated 10.11.94 and stated that instructions had already been issued to the concerned supervisor for taking the applicant on duty. The learned counsel stated that after permitting the applicant to join duty he was dismissed from service vide impugned order dated 22.5.95 on the charge of unauthorised absence. The thrust of the argument of the learned counsel was that the charge of unauthorised absence had no basis as the applicant was forced to remain away from duty because the respondents were not permitting him to join. Since he remained away from duty for no fault of his, the action of the disciplinary authority in dismissing him from service was illegal.

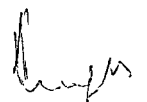
4. We have perused the order of the disciplinary authority and we find that this has been issued after a departmental inquiry. Nothing has been stated by the applicant or on his behalf that there was any procedural defect in the departmental proceedings. It is a finding of fact in the inquiry that the applicant absented from duty and he has been dismissed for that reason. This OA also suffers from a very serious defect inasmuch as the applicant had submitted an appeal against the order of the disciplinary authority and that appeal was disposed of by the appellate

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authority i.e. DRM Kota, who passed a very detailed and reasoned order dated 12.12.96. No relief has been sought against this order even though a copy of this order has been enclosed by the applicant with this OA. Even otherwise, we find the orders of the disciplinary authority and appellate authority have been issued after following proper procedure enshrined in the Railway Servants (Discipline & Appeal) Rules, 1968. There is no illegality in this order and this OA is, therefore, liable to be dismissed.

5. The OA is, therefore, dismissed. No order as to costs.

  
(J.K.KAUSHIK)  
MEMBER (J)

  
(A.P.NAGRATH)  
MEMBER (A)