

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

DATE OF ORDER: 21.09.2001

OA 508/1999

Heera Lal Shrawan son of Shri Shrawan Meena aged about 40 years, now-a-days Ex. Gangman, Gange No. 3, Goverdhan Station, Western Railway. Jaipur Division, Jaipur resident of Badiyal Khurd, Tehsil Barnia, District Dausa.

....Applicant.

VERSUS

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. Sr. Divisional Engineer (East), Western Railway, Jaipur.
3. Assistant Engineer, Western Railway, Jaipur Division, Jaipur.

Mr. S.K. Jain, Counsel for the applicant.

Mr. B.K. Sharma, counsel for the respondents.

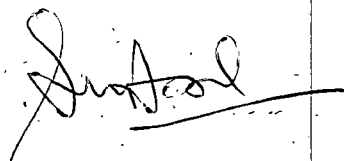
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Hon'ble Mr. S.K. Agarwal, Member (Judicial)

Hon'ble Mr. A.P. Nagrath, Member (Administrative)

ORDER

PER HON'BLE MR. S.K. AGARWAL, MEMBER (JUDICIAL)

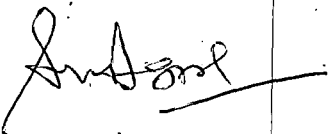


In this OA u/s 19 of the Administrative Tribunal's Act, applicant makes a prayer to quash and set aside the impugned order, imposing the penalty, dated 30.8.97 at Annexure A-1 and to direct the respondents to pay all the benefits of arrear of pay fixation etc. to the applicant.

2. Reply to this OA has been filed which is on record.

3. Heard the learned counsel for the parties and also perused the whole record.

4. On perusal of averments of the parties, it appears that applicant was given a Memorandum of charge-sheet on account of unauthorised absence w.e.f. January, 1996 to January, 1997 (257 days). It also appears that applicant did not file any written reply to the charge-sheet and on the basis of Memorandum of charge-sheet alone, the applicant was held guilty and Disciplinary Authority passed impugned order of punishment. It is abundantly clear from the averments of the parties that in inquiry whatsoever is conducted in this case, no evidence was produced by the department and the delinquent also not been given any opportunity to produce his defence. Even he himself has not been examined by the inquiry officer. Therefore, it appears that inquiry has been conducted in this case in clear violation of rule/procedure. On the basis of such an inquiry, ^{where} no rules/procedure have been followed, Punishment imposed upon the applicant is not only arbitrary but illegal and liable to be quashed.



5. It also appears that applicant stated to have filed an appeal. Respondent's Department has denied the fact that no decision on the appeal, allegedly filed by the applicant, has been done.

6. The learned counsel for the ~~respondents~~ ^{been} submits that this OA has ^{been} filed after a period of limitation is over. Admittedly impugned order was passed on 30.8.97. Thereafter, the applicant ^{have} is stated to file an appeal, which has not been decided so far. Although this fact has been denied by the respondent's department but looking to the facts and circumstances of this case, we are of the considered opinion that in these circumstances, as above, the OA cannot be held to be ~~beyond~~ barred by limitation. If at all, it can be stated to be barred by limitation, we condone the delay in the facts and circumstances.

7. In view of the above, we allow this OA and quash the impugned order dated 30.8.97, imposing punishment, by which applicant has been removed from his service. The respondents are directed to reinstate the applicant in service forthwith. Respondent's department will be at liberty to conduct inquiry against the applicant on the basis of charge sheet, already issued, and inquiry shall be completed within a period of six months from the date of receipt of a copy of this order by giving full opportunity of hearing to the applicant and following the rules/procedure. The applicant is expected to co-operate in the inquiry proceedings. No order as to costs.


(A.P. NAGRATH)

MEMBER (A)


(S.K. AGARWAL)

MEMBER (J)