

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

GA 540/99

DATE OF ORDER: 19.12.2003

1. Smt. Krishna widow of Late Sh. Ram Pal
2. Renu Daughter of Late Ram Pal
3. Vijai son of Late Sh. Ram Pal
4. Santosh daughter of Late Sh. Ram Pal
5. Deepa Daughter of Late Sh. Ram Pal
6. Rekha Daughter of Late Sh. Ram Pal

These all are Legal representatives of Late Sh. Ram Pal son of Late Shri Ghasi Lal, resident of 17, Santosh Nagar, Ajmer Road, Jaipur.

... Applicants

VERSUS

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai
2. Chief Works Manager, Western Railway, Ajmer
3. Deputy Chief Mechanical Engineer (Carriage), Western Railway, Ajmer
4. Works Manager (R) C&W Shops, Western Railway, Ajmer

... Respondents

Mr. R.D. Tripathi, Counsel for the applicant

Mr. R.S. Gupta, Counsel for the respondents

CORAM:

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

Hon'ble Mr. M.L. Chauhan, Member (Judicial)

ORDER

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

This application has been filed by the applicant to quash the impugned orders dated 15.11.97, 23.9.1998 and 22.3.1999 and to direct the respondents to reinstate the applicant in service with all consequential service benefits.

After the death of the applicant on 17.9.2002, MA No. 540/99 was filed for substitution of the ~~name of the applicant's~~ wife alongwith other children, which was allowed.

2. The facts of the case, in brief, are that the applicant was initially appointed as Khallasi on 7.10.1980 and thereafter promoted as Helper in the year 1987. While in service, he was served with a charge-sheet with the allegation of unauthorised absence from duty w.e.f. 13.12.1994 to 27.6.1995. Initially the applicant moved an application for sanction of leave without pay from 9.12.94 to 12.12.94 on the ground of illness. The charge against the applicant was that he remained unauthorised absent from work ~~day~~ between 13.12.1994 to 06.06.1995 when he was under treatment of Private Registered Doctor and further from 7.6.1995 to 24.6.1995, he remained as indoor and outdoor patient in Railway Hospital, Ajmer. The applicant has submitted in the OA that ~~xxxx~~ initially he went on leave for four days. He had informed the respondents that he had applied for leave on the ground of his illness. Further subsequently, he had taken treatment in the private as well as Railway Hospital for six months for which he could not inform ~~ed~~ or ~~for~~ ^{apply for} sanction of the leave for that period. The applicant has, therefore, stated in the OA that the respondents were well informed that he had applied ^{for} leave on the ground of his illness but he could not inform ~~ed~~ the respondents subsequently about his further illness as he was innocent, sick and uneducated ^{about} and he remained under the impression that the respondents are in the knowledge about his illness.

4. The respondents have subsequently appointed the Inquiry Officer to conduct the inquiry. The said Inquiry Officer after making ^{detailed} inquiry submitted his report, stating that the applicant was an habitual absentee from work and used to remain absent from work at his will without sanction of proper leave or without any intimation to the ^{senior} officers. The applicant was issued six call letters to appear and co-operate with the Inquiry Officer but except on one occasion, he did not respond to the other letters and also did not co-operate with the Inquiry Officer in the conduct of the Inquiry. Ultimately an ex-parte inquiry was conducted by the Inquiry Officer and on the basis of the inquiry report, the applicant was removed from Railway service vide letter dated 15.11.1997. The applicant thereafter preferred an appeal against the order of removal on 5.6.1998 which was rejected by the Appellate Authority vide order dated 23.9.1998. Against the order of Appellate Authority, the applicant preferred Review Petition dated 5.12.1998 before respondent No. 2, who also rejected the same vide order dated 22.3.1999. It may be mentioned here that the deceased applicant was himself appointed on compassionate ground due to sudden demise of his father while in Railway service by respondent No. 2.

5. It has been argued by the learned counsel for the applicant that the deceased applicant had to shoulder his burden of nine members in his family while he himself was sick. In such situation, removal from service resulted ⁱⁿ great shock to the applicant which also took away his life in early 2002. The learned counsel for the applicant prayed that the absence of the applicant from duty for the period of about six months may be ~~be~~ condoned and his services may be regularised so that adequate pension is available to the wife of the deceased as all the eight children in the family ~~members~~ of the applicant are still minor.

6. The respondents in their counter have stated that the applicant remained wilfully absent from duty from 13.12.1994 to 29.6.1995 without any prior permission or any information and for this unauthorised absence from duty, he was served with charge sheet dated 14.11.1995 and removed from service vide order dated 15.11.1997. It has been further stated by the respondents that the applicant was ~~a~~ habitual absentee from work and on earlier occasions also, he was charged for unauthorised absence. The respondents have further submitted that applicant was charged with 22 minor penalties before his removal from Railway service vide order dated 13.7.1997. The respondents have further stated that complying with the principles of natural justice, enough opportunities were given to the applicant to produce his case and defend, if any. But he never appeared and did not attend the Disciplinary inquiry and as such the inquiry was to be completed ex-parte by the Inquiry Officer.

7. During the course of discussion, the learned counsel for the applicant agreed ~~x~~ with the fact that the applicant remained absent without informing the respondents and the question of getting sanction of leave did not arise when the applicant did not ^{even} inform the respondents. Another charge against the applicant was that he did not avail the medical treatment at Railway Hospital and instead remained at ~~at~~ Private Hospital, which was against the rules. This also could not be explained by the applicant's counsel in his defence. The charge against the applicant was so clear that his appeal before the Appellate Authority, Review Petition ~~...~~ filed before the Reviewing Authority were dismissed. The penalty imposed by the Disciplinary Authority was confirmed. The learned counsel for the respondents has, therefore, argued that there is no violation of Articles 14, 16 and 21 of the

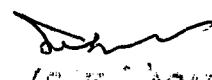
Constitution of India and the order of penalty imposed against the applicant was just and reasonable which need to be maintained by this Tribunal.

8. We have gone through all the facts and the arguments put forth by the learned counsel for the applicant as well as respondents.

9. The facts are not disputed that the applicant remained unauthorised absent from duty for over six months period. The fact that on earlier occasions, he was served with minor punishment for 22 times could not be ~~disputed~~^{disputed} or denied by the applicant's counsel. We, however, ^{do not} agree with the arguments of applicant's counsel that since the applicant had proceeded for four days' leave without pay on account of his illness and the respondents were aware of his sickness, although the applicant neither informed the respondents or took permission for sanction of leave. We, therefore, are of the view that the punishment awarded to the applicant by the Disciplinary Authority, (confirmed in appeal and review cannot be considered as excessive and, therefore, OA is liable to be rejected.

10. In view of the above, we are of the ^{opinion that} OA is devoid of merit and the same is accordingly dismissed with no order as to costs.


(M.L. CHAUDHAN)
MEMBER (J)


(S.K. AGARWAL)
MEMBER (A)