

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Order : 07.05.2004

Original Application No.540/2002.

Mohd. Hussain son of Shri Rustumji Sand Blaster T. No.49487/30, Deptt. 30 C&W Shop, North West Railway, Ajmer, resident of Sahadiya Madarsa Ward No.4, Behind Imam Bara, Gandhinagar, Madanganj, Kishangarh, Distt. Ajmer.

... Applicant.

v e r s u s

1. Union of India through the General Manager, North-West Railway, Head Quarters Office, Jaipur.
2. The Chief Works Manager, Loco Head Office, North-West Railway, Ajmer.
3. The Dy. C.M.E. (C&W) North West Railway, Ajmer.

... Respondents.

Shri N. K. Gautam Proxy counsel for
Mr. S. R. Chowrasia counsel for the applicant.
Mr. S. S. Hassan counsel for the respondents.

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Hon'ble Mr. M. L. Chauhan, Judicial Member.
Hon'ble Mr. A. K. Bhandari, Administrative Member.

: O R D E R (ORAL) :

The applicant has earlier filed OA in this Tribunal, thereby seeking direction to the respondents to permit him to join duty. The said OA was registered as OA No.82/97 which was finally disposed of vide order dated 09.04.2002. In the operative portion, the following observations were made by this Tribunal :-

"2. In view of the fact that the applicant has already been removed from service after conducting departmental proceedings, the relief prayed for in this OA has become infructuous. In the face of

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the order of removal, no direction whatsoever can be issued to the respondents to take the applicant on duty. In view of this development, this OA is dismissed as having become infructuous. However, the applicant is at liberty to agitate the matter against the departmental proceedings before the appropriate forum, if so advised. No costs."

In view of the disposal of the said OA No.82/97, the appeal of the applicant which was pending before the competent authority was disposed of. It is against this order as well as the order passed by the Disciplinary Authority, the applicant has filed this OA thereby praying for quashing the impugned order passed by the Disciplinary Authority, Annexure A-1, as well as the order passed on his appeal dated 13.09.2002 (Annexure A-2).

2. Notice of this application was given to the respondents. The respondents have filed reply thereby contesting the case.

2.1 It has been stated in the reply that the appeal of the applicant dated 01.10.1999 (Annexure A-22) was kept pending as the OA was already pending in this Tribunal which was finally disposed of on 09.04.2002. Since the OA was disposed of on 09.04.2002, as such, the appeal was also not considered in view of the disposal of OA No.82/97 on 09.04.2002.

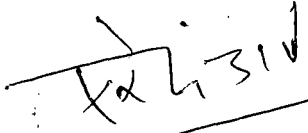
3. We have heard the learned counsel for the parties and gone through the material placed on record.


4. As can be seen from the impugned order Annexure A-2, it is evident that the said order has been passed in a mechanical way and the appeal of the

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applicant has not been considered at all. The appeal of the applicant was rejected solely on the ground of dismissal of earlier OA No.82/97 vide order dated 09.04.2002. As can be seen from the operative part of the order passed in the earlier OA, which has been reproduced above, it was specifically made clear in that order that the applicant is at liberty to agitate the matter before the appropriate forum. Since the appeal of the applicant was already pending it was incumbent upon the Appellate Authority to decide the appeal in accordance with law. Having not been done so, we are of the view that the impugned order dated 13.09.2002 Annexure A-2 has been passed by the Appellate Authority in most mechanical way and without application of mind. Accordingly the same is quashed. The matter is remitted back to the Appellate Authority to reconsider the case of the applicant in accordance with law and pass appropriate order.

5. Accordingly, the OA is partly allowed. Respondent No.3 is directed to decide the appeal of the applicant dated 01.10.1999 afresh in accordance with law. Such exercise shall be done within a period of six weeks from the date of receipt of this order. Needless to add that in case the applicant is aggrieved by the order passed by the Appellate Authority, he may ventilate his grievances afresh.


(A. K. BHANDARI)
MEMBER (A)


(M. L. CHAUHAN)
MEMBER (J)