

**CENTRAL ADMINISTRATIVE TRIBUNAL**

**JAIPUR BENCH.**

**O.A.NO.528 2003**

**April 21, 2005**

**CORAM : HON'BLE MR.KULDIP SINGH, VICE CHAIRMAN  
HON'BLE MR.A.K.BHANDARI, MEMBER (A).**

Niranjan S/o Shri Bhandari, aged about 44 years, R/o Vill-Jaichauli, Post – PAR, the Roop Bas, Distt-Bharatpur (Raj), last employed on the post of Gangman at Gangapur City (South) under Permanent Way Inspector, Western Railway, Kota Division.

Applicant

By : Mr.Shiv Kumar, Advocate.

Versus

1. Union of India through General Manager, Central Western Railway, Jabalpur.
2. Divisional Railway Manager, Central Western Railway, Kota Division, Kota.
3. Assistant Divisional Engineer, Gangapur City, Western Railway, Kota Division.
4. Divisional Engineer (South), Western Railway, Kota Division, Kota.

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Respondents.

By : Mr.Anupam Aggarwal, Advocate.

**ORDER (oral)**

**KULDIP SINGH,VC**

The applicant was appointed as a Gangman on 1.10.1984 in Western Railway, Kota Division, in the pay scale of Rs.825-1200, revised to Rs.2750-4400. He was served with a charge sheet dated 19.3.1996 for imposition of major penalty. The allegation was that applicant remained unauthorizedly absent w.e.f. 9.2.1996 and without any intimation to the authorities. After inquiry, the applicant was imposed punishment of removal from service vide order dated 28.11.2002 (Annexure A-1).

The applicant submitted an appeal dated 25.1.2003 (Annexure A-3) but the same was returned to the applicant with



the remarks that detail of concern NIP is not mentioned and the same was marked to OS./DAR. He submits that the concerned department has also refused to receive the appeal. The applicant has challenged the validity and illegality of the charge sheet, inquiry proceedings as well as order passed by the disciplinary authority.

By way of the present O.A he has prayed for quashing the charge sheet; inquiry report as well as punishment order dated 28.11.2002 with all the consequential benefits.

The O.A has been resisted by the respondents by filing a detailed reply. They support the impugned orders. It is also stated that they have not received any appeal as claimed to have been submitted by the applicant.

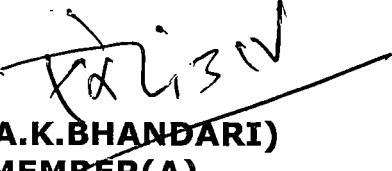
We have heard Learned counsel for the parties at length and perused the material on the file.

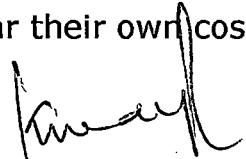
The O.A. was filed in first week of November, 2003 and has come up for final disposal today. We find that the applicant has challenged the impugned orders on various grounds which the appellate authority is yet to consider. The applicant claims that he had submitted the appeal to the competent authority whereas the stand of the respondents is that they have not received any such appeal.

During the course of arguments, learned counsel for the applicant showed us the cover of the envelope in which he had sent the appeal to the respondents. The cover of the envelopes shows that the same was not accepted in the absence of NIP no. In any case, we are of the view that the mighty department could have easily traced out the said number from their own record. It was not such a big problem and could have been solved by the respondents themselves by using various means of communication.

In view of these facts, we would not like to go into merits of the case at this stage and it would be just and proper to dispose of this O.A. with a liberty to the applicant to file an appeal which may be considered by the competent authority and disposed of on merits.

In view of the above, this O.A. is disposed of with a liberty to the applicant to submit a comprehensive appeal to the competent authority within a period of 15 days from the date of receipt of this order, which shall be considered and disposed of by the said authority within a further period of three months from the date of receipt of the appeal. It is made clear that the appeal is to be considered on merits and not on the technical ground of limitation. Parties are left to bear their own costs.

  
(A.K.BHANDARI)  
MEMBER(A)

  
(KULDIP SINGH)  
VICE CHAIRMAN

April 21, 2005.

HC\*