

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
JA BALPUR

Original Application No. 131 of 2006

Jabalpur this the 14th day of March, 2006.

Hon'ble Mr. G.Shanthappa, Judicial Member

Paraslal Rajak, aged 30 years,
Son of late Shri Ram Prasad,
Occu:Sr.Gangman, Gang No.53,
S.E.(P.Way),Shahdol,
R/o Nandan Colony,Shahdol,
Distt.Shahdol (M.P.)

-Applicant

(By Advocate – None)

VERSUS

1.Union of India,through Secretary,
Ministry of Railway, New Delhi.

2. Asstt.Divisional Engineer, S.E.C.Railway,
Distt.Shahdol (M.P.)

3. Divisional Railway Manager, S.E.C.Railway,
Distt.Bilaspur (CG).

- Respondents

(By Advocate – Shri M.N.Banerji)

ORDER(Oral)

When the case was called on 13.3.2006, neither the applicant nor his counsel was present. The case was adjourned to 14.3.2006 i.e. for today. Even today on second call, there is no representation on behalf of the applicant.

2. I directed Shri M.N.Banerji, Standing Counsel for Railways to take notice and he accepts notice of respondents.



3. The above OA is filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the following main relief:

“to quash the impugned order dated 28.5.2005 (Annexure-A-1) and entire DE proceedings and after quashing of the same this Hon.Court may be pleased to direct the respondents to reinstate the applicant with full back wages.”

4. The impugned order dated 28.5.2005 (Annexure-A-1) was passed by the disciplinary authority against which the applicant has filed an appeal dated 8.6.2005 (Annexure-A-8) and subsequently a legal notice dated 18.7.2005 has been issued. In the impugned order there is a note to the effect that “if you have anything to say in the matter of punishment you may do so in writing through proper channel within 45 days of receipt of this to DEN(N) BSP”. As per the note, the applicant submitted an appeal, which is pending for consideration before the appellate authority. Since the appeal is pending before the appellate authority, the applicant has approached this Tribunal challenging the orders of the disciplinary authority. Though the applicant has exhausted the remedy by way of filing an appeal before the appellate authority, but the appeal is pending. In the relief of the original application, he has not sought for a direction to the appellate authority to consider the appeal and pass orders.

5. The learned counsel for the respondents has submitted that the applicant has filed an appeal as per Annexure-A-8 which is pending for consideration. Hence this original application is not maintainable and he has requested for dismissal of O.A. as not maintainable.

6. Since there is no relief of the applicant in the relief column for direction to decide the appeal, I mould the relief and direct the appellate authority to decide the appeal within a time frame.



7. The matter relate to the Division Bench matter. Only for a direction to be given to the respondents, the Single Member can decide the relief of direction to decide the appeal. On this ground I am entertaining the original application.


8. The applicant has not made the appellate authority as a party-respondent to the original application. I direct the competent authority to decide the appeal dated 8.6.2005 (Annexure-A-8) and he is also directed to consider the averments made in this Original Application as the grounds urged in the appeal.

9. I am not deciding the application on merits since it is a division bench matter.

10. The appellate authority is directed to consider the appeal within a period of three months from the date of receipt of a copy of this order.

11. With the above direction, the OA is disposed of.

12. The Registry is directed to send a copy of the OA along with a copy of this order to the Divisional Engineer (North)South East Central Railway, Bilaspur.


(G. Shanthappa)
Judicial Member

rkv फ़ांक्कन सं ओ/न्या.....जबलपुर, दि.....

पत्तिलिपि अद्योशित

- (1) सक्षिप, उक्त प्रमाणपत्र धारा जबलपुर
(2) धारा 26 सी/डी/सी/कु के कार्यालय
(3) धारा 26 सी/डी/सी/कु के कार्यालय
(4) कोषपाल, रजिस्ट्रार, धारा 26 सी/डी/सी/कु
सूचना एवं आवश्यक कार्रवाई हेतु

उपनिर्देश

Praveen Vemuru, ANBP
m. k. Bhatnagar ANBP
Divisional Engineer (North)
South East Central Rly
Bilaspur
(with copy of OA)
A. C. Bhatnagar
20/3/06

Issued
20/3/06

20/3/06