

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

CIRCUIT SITTING AT BILASPUR

OA No.1064/04

Bilaspur, this the 12th day of May 2005.

CORAM

Hon'ble Mr.M.P.Singh, vice Chairman
Hon'ble Mr.A.K.Bhatnagar, Judicial Member

Sukhi Ram
S/o Shri Bajala
Khalasi Helper in C&E/P.P.Yard/BIA
R/o Paterapali-kala, Post
Office Sendri, Tahsil Sakti
Police Station Sakti
District Janjgir-Champa (CG) Applicant

(By advocate Shri Ashok Swarnkar)

versus

1. Union of India through
The Secretary
Ministry of Railway
Delhi.
2. General Manager
South East Central Railway
Bilaspur Division, Bilaspur.
3. Senior Divisional Mechanical
Engineer (Field)
South East Central Railway
Bilaspur (CG) Respondents.

(By advocate Shri M.N.Banerjee)

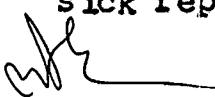
O R D E R (oral)

By M.P.Singh, vice Chairman

By filing this OA, the applicant has claimed the following reliefs:

- (i) Direct the respondents to reinstate the applicant on the post of Khalasi Helper.
- (ii) Direct the respondents to pay all the arrears of salary and all consequential benefits with 18% interest p.a.

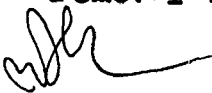
2. The brief facts of the case are that the applicant while working as Khalasi Helper under Carriage Foreman/P.P.Yard/Bhilai was unauthorisedly absent from duty for the period from 2.8.95 to 3.6.96. During this period, he had neither given any information nor submitted any sick report. Hence he was issued a major penalty charge



sheet. After completing the enquiry, the penalty of removal from service was imposed on the applicant. Hence this OA is filed.

3. We have heard both parties and perused the records. During the course of the arguments, learned counsel of the applicant submitted that the applicant had gone to his native place which is located in a dense forest[&] in his village and there is no facility of telephone or postal service there. Hence he could not inform the respondents about his absence. He fell seriously ill and remained there for a long time. It is because of this that the applicant was absent from duty for a long time. Learned counsel for the applicant further submitted that the applicant could not engage his defence counsel on the presumption that he has to make payment to the defence counsel. It was, therefore, the duty of the respondent Railways to provide defence counsel to the applicant, which has not been done.

4. On the other hand, learned counsel for the respondents stated that the applicant was absent from duty unauthorisedly for a long time and, therefore, an enquiry was instituted; enquiry officer was appointed; the charge was proved and the finding of the enquiry officer was sent to the applicant to make a representation. The applicant made a representation against the finding of the enquiry officer. The disciplinary authority, after considering the representation of the applicant, has imposed on the applicant the penalty of removal from service. Therefore, due procedure has been

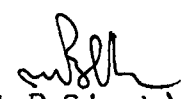


followed. The appeal filed by the applicant was decided on 26th June 1997 and the revision filed by the applicant to the same authority was also rejected by the revisional authority on 7.1.99. Learned counsel also submitted that this OA has been filed after a delay of 6 years and no application for condonation of delay has been filed by the applicant. Therefore, this OA is without any merit and is liable to be dismissed. It is also submitted that the orders of the disciplinary, appellate and revisional authorities have not been challenged by the applicant.

5. We have given careful consideration to the rival contentions and we find that the applicant who has been working as Khalasi Helper was absent from duty unauthorisedly and therefore, a charge sheet was issued to him. An enquiry officer was appointed and an enquiry held against him. The applicant participated in the enquiry. An opportunity of hearing was given to him and the principles of natural justice have been complied with. As per the law laid down by the Hon'ble Supreme Court, the Tribunal cannot re-appraise the evidence and also cannot go into the quantum of punishment. In this case, we find that the revision petition of the applicant was decided long back. The applicant has filed this OA in 2004 and no application for condonation of delay has been filed by the applicant. We also find that the orders passed by the disciplinary, appellate and revisional authorities have not been challenged by the applicant. Hence we do not find any ground to interfere with the punishment imposed on the applicant. The OA is without any merit and is accordingly dismissed.


(A.K. Bhatnagar)
Judicial Member

aa.


(M.P. Singh)
Vice Chairman