

CENTRAL ADMINISTRATIVE TRIBUNAL

JABALPUR BENCH, JABALPUR

O.A. 241 of 2004

Date of order : 6th May, 2005

C O R A M

Hon'ble Mr. M.P.Singh, Vice-Chairman
Hon'ble Ms. Sadhna Srivastava, Member(J)

Rakesh Kumar, S/O Shri Devi Dayal Jha, aged 42 years, R/o A-147, Pushpa
Nagar Colony, Near Lakshmi Sree Narayana Homeopathic Hospital, Bhopal
M.P. Applicant's

Vrs.

1. Union of India through General Manager, West Central Railway, Jabalpur-1.
2. Divisional Railway Manager, Central Railway, Bhopal.
3. Senior Divisional Technical Electrical Engineer(D), Central Railway, Itarsi (MP).

..... Respondents.

Counsel for the applicant : Smt. S. Menon
Counsel for the respondents : Shri M.N.Banerjee.

O R D E R

By Sadhna Srivastava, Member(J) :

The applicant has been awarded the punishment of removal from service by order dated 4.12.1996 as contained in Annexure-4. The appeal and revision has also been dismissed vide order dated 4.1.1999 and 23.9.1999, Annexure-7 and Annexure-9 respectively.

2. The facts are that the applicant while posted as Diesel Khalasi (IV) at Itarsi absented from duty with effect from 2.9.1994 till 10.4.1996 without any application for

AB

2.

leave or any other information. Thereafter a charge-sheet dated 10.4.1996 was served on him on 16.4.1996 for major penalty. The applicant did not file any reply to the charge-sheet. The enquiry commenced on 5.8.1996. The applicant, however, secured adjournments one after another. The enquiry actually commenced on 15.11.1996 in presence of the applicant. In a question put by the enquiry officer, the applicant made admission which proves that the charge of unauthorised absence for about 19 months without any information to the employer. The only explanation of the applicant is that he has not been keeping well. There is, however, not an iota of any evidence about the illness of the applicant as there is no medical certificate. There is no proof that the applicant attended any hospital at any point of time during 19 months of absence. Thus, the cause of absence has not been explained by the applicant. The mere assertion that the applicant was ill without any proof whatsoever, cannot be accepted by any reasonable person.

2. In view of the above circumstances, the enquiry officer satisfied himself from the official record that the applicant was absent from office without any information and he was not paid any salary. Consequently, the enquiry officer recorded a finding that the charge for unauthorised absence was proved. On the basis of this, the disciplinary authority awarded punishment of removal from service. The appeal and revision although dismissed on the ground of limitation, it is clear from the above facts, there remained nothing to be discussed. The charge is completely proved by the admission of the applicant.

3. As regards limitation, the less say the better. Not only the appeal and revision were beyond limitation, the O.A. has also been filed about three years delay. The



3.

last order was passed on 23.9.2004. It only reflects that the applicant is litigating for the sake of litigation. He is not interested in employment at all.

4. We have perused the original records. As mentioned above, the applicant has appended his signatures on the enquiry proceedings of 5.8.1996, 6.9.1996 and 15.11.1996. Thus, the enquiry was conducted in the presence of the applicant. In fact it will not be wrong to say that the applicant did not make any attempt to defend himself. The applicant, in our opinion, was given full opportunity in accordance with law to defend himself.

5. In conclusion, we do not find any merit in the O.A. and the same is, accordingly, dismissed with no order as to cost.


(Sadhna Srivastava)
Member(Judicial)


(M.P. Singh)
Vice-Chairman

mps.

प्रलंबन सं ओ/न्या.....जयलाल, दि.....
प्रतिलिपि दाता प्रिया:-
(1) राम र. जयलाल, प्रमाणी, जयलाल, जयलाल
(2) आर. र. जयलाल, प्रमाणी, कार्यालय
(3) प्रदीप र. जयलाल, प्रमाणी, कार्यालय
(4) राम र. जयलाल, प्रमाणी, कार्यालय
संघर्ष एवं लालचाल कार्यालय, जयलाल
संपर्क संदर्भ
2007

guseed
13/5