

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH

OA 276/04

*(Curatio)* this the 8th day of December, 2004

CORAM

Hon'ble Mr.M.P.Singh, Vice Chairman  
Hon'ble Mr.Madan Mohan, Judicial Member

Man Singh Verma  
S/o Ganesh Prasad Verma  
R/o Quarter No.RB-IO(M) 28-C  
New Katni Junction.  
Dist.Katni.

Applicant

(By advocate Shri D.N.Shukla)

Versus

- 1.3 Union of India through  
Secretary, Ministry of  
Railways, Rail Bhavan  
New Delhi.
2. General Manager  
Central Railway  
Bombay V-T.
3. The Divisional Railway Manager  
Jabalpur.
4. Sr.Divisional Mechanical Engineer  
(D), New Katni Junction  
Katni.
5. The Additional Divisional Railway  
Manager, Jabalpur.

Respondents

(By advocate Shri M.N.Banerjee)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant seeks to quash the impugned order Annexure A1 and a direction to the respondents to pay the salary for the period from 28.6.94 to 17.10.97 with interest.

2. The brief facts of the case are that the applicant was working as Armature Winder at Diesel Shed, Katni and later he was posted as Gr.II w.e.f.28.2.88. The applicant was assigned the work and appointed on the post of Axle Technician and the work was to be completed

by 4.9.91, but the applicant did not do the work in time. A charge sheet was issued and a departmental inquiry was conducted and he was removed from service. The same was challenged before the Tribunal by filing OA No.441/95 and the Tribunal passed an order dated 8.7.97 holding that the punishment was excessive. Thereafter the appellate authority reinstated the applicant in service (Annexure A3). However, the removal period was declared as dies-non (Annexure A4). This order was challenged by the applicant by filing OA No.887/98 and the Tribunal vide its order dated 11th Sept.2003 directed the respondents to consider his case under FR-54 and Railway Service (D&A) Rules, 1968. The applicant submitted a representation followed by reminders but till date no order has been passed by the respondents. Hence this OA is filed.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that a charge sheet was issued against the applicant and he was ordered to be removed from service. Against that order, the applicant filed OA 441/95. The Tribunal vide its order dated 8.7.97 held that the punishment awarded was excessive. In compliance with the order of the Tribunal, the applicant was reinstated but the period between the date of removal and reinstatement was declared by the respondents as dies non. The applicant again filed an OA No.887/98 and the Tribunal vide its order dated 11th Sept.03 quashed the order of the appellate authority to the extent of dies-non. Even then, the respondents have passed the impugned order dated 5.12.03 (Annexure A1) by which the period from removal to the date of reinstatement is treated as "No work No Pay". on the ground that the enquiry was delayed unnecessarily due to non-cooperative attitude of the applicant, while it is absolutely wrong and incorrect. The applicant is legally entitled for the reliefs claimed.

9

4. In reply, the learned counsel for the respondents argued that the disciplinary authority found the applicant guilty of the charges and imposed punishment of removal from service w.e.f. 28.6.94. An appeal was filed by the applicant, which was rejected on 23.4.95. He filed an OA in which the Tribunal came to the conclusion that the punishment was excessive and accordingly in compliance with the order of the Tribunal, the competent authority had passed a detailed, speaking and reasoned order in terms of Rule FR-54 as referred in para (1) of IREC Vol.II and decided that the intervening period from the date of removal to the date of reinstatement as "No work no pay". The Tribunal vide its judgement dated 11.9.03 passed in OA 887/98 has not directed the applicant to give any representation, hence submission of representation is baseless, but only directed the respondents to pass order under Rule FR 54 and accordingly the respondents decided the same in terms of FR 54. The applicant had delayed conducting the enquiry against him. They have not committed any irregularity or illegality in passing the impugned order.

5. After hearing the learned counsel for both parties and a careful perusal of the records, we find that the applicant was ordered to be removed from service and his appeal was also dismissed. Then he filed OA No.441/95 which was allowed by the Tribunal holding that the punishment awarded was excessive. Accordingly the respondents had reinstated the applicant and the period of removal to reinstatement was declared as dies non, against which the applicant filed a representation and also filed an OA 887/98. The Tribunal vide its order dated 11.9.03 directed the respondents to consider the case of the applicant and pass order under

60

FR-54 (Annexure A5). Thereafter the respondents have passed the impugned order dated 5.12.03 (Annexure A1) in which the period from removal to reinstatement of the applicant is ordered to be treated as "No work no pay". The applicant was not fully exonerated from the charges. The order of 'dies non' was quashed by the Tribunal and now the respondents have passed the aforesaid impugned order in compliance with the order of the Tribunal dated 11.9.03 passed in OA 887/98.

6. Considering all the facts and circumstances of the case, there seems to be no irregularity or illegality in this order, as the applicant has not worked during the period between removal and reinstatement. Hence the applicant is not entitled for the reliefs claimed. The OA deserves to be dismissed. Accordingly the OA is dismissed.

No costs.

  
(Madan Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

aa.

पृष्ठांकन सं. अम/व्या..... जवलपुर, दि.....  
पत्रिलिपि अम/व्या.....  
(1) सन्दित, उच्च उचायात्रा १०.८.०३ दि. ग्रा. जवलपुर  
(2) आवेदक श्री/श्रीमती/कु..... के काउंसल  
(3) प्रत्यार्थी श्री/श्रीमती/कु..... के काउंसल Dr. Shekhar DB 200  
(4) चंथपाल, को.प्र.अ., जवलपुर ज्यादात्मक DB N. Benarkar DB  
सूचना एवं आवश्यक कार्यवाही हेतु DB  
रजिस्ट्रार

*Received  
on 14-12-03  
BS*