

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 658 of 2004

Jabalpur, this the 30th day of March, 2005

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Ms. Sadhna Srivastava, Judicial Member

Prakash Son of Ghanshyam,
Ex-helper Khalasi,
Central Railway Itarsi,
Now resident of House No.117,
Ward No-1, Opposit Tractor Scheme,
Itarsi.

Applicant

(By Advocate - Shri P.S. Das)

VERSUS

1. Union of India,
Through Secretary,
In the Ministry of Railway
New Delhi.
2. Senior D.M.E.(Divisional
Mechanical Engineer)
Western Central Railway,
Division Office Bhopal.
3. Assistant Mechanical Engineer,
(C & W) Itarsi.
4. General Manager,
Western Central Railway,
Jabalpur.

RESPONDENTS

(By Advocate- Shri M.N. Banerjee)

O R D E R (ORAL)

By M.P. Singh, Vice Chairman -

By filing the original application, the applicant
has sought the following main reliefs :-

"(i) That, the impugned orders vide Annexure-A-2
and A-5, be quashed and set aside.

(ii) The respondents be directed to reinstate
him in his service/post of helper Khalasi.

(iii) The quantum of punishment imposed be
directed as illegal and arbitrary."




2. The brief facts of the case are that while the applicant was working as Helper Khalasi, a charge sheet was issued to him on 11.10.94. Thereafter enquiry was held against the applicant. Charge No.1 could not be established, however, charge No.2 was proved against the applicant. Thereafter a copy of the finding of the enquiry report was sent to the applicant and he had made representation against the same in which he has accepted the charge with regard to the fact that he was not wearing the uniform while he was on duty. Thereafter the disciplinary authority has taken into consideration the finding of the enquiry report as well as the representation of the applicant and has imposed the penalty of removal from service on the applicant vide order dated 18.3.95(Annexure-A-2). The applicant has challenged the order of the disciplinary authority and filed an appeal dated 27.3.1995 and also filed a revision petition dated 7.8.2002. The respondents have not yet taken any decision on the aforesaid appeal. However, the respondents have rejected the revision petition of the applicant on the ground of limitation. Hence, this OA.

3. We have heard the learned counsel for the parties and carefully perused the records.


4. We have given careful consideration to rival contentions of both the parties. We find that only the charge No.2 has been proved against the applicant and the disciplinary authority has imposed the penalty of removal from service on the applicant vide order dated 18.3.95. We are of the considered view that the penalty imposed by the disciplinary authority is not proportionate to the charge proved against the applicant in the enquiry,

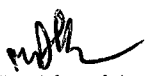
5. Aafter considering all the aspects of the matter, the order passed by the revisional authority dated 7.3.2003(Annexure-A-5) is quashed. The appellate authority is directed to decide the appeal of the applicant dated 27.3.1995 within a period of three months from the



date of receipt of a copy of this order, while deciding the appeal, the appellate authority should keep in mind our above observation that the punishment imposed on the applicant is ^{too} harsh. He may consider to impose any penalty on the applicant other than removal, dismissal and compulsory retirement from the service. The appellate authority is also directed not to take the ground of limitation while deciding the appeal of the applicant. The applicant is also directed to send a copy of the appeal to the appellate authority within a period of two weeks from the date of receipt of a copy of this order.

6. In the result the OA is allowed in the above terms. No costs.


(Ms. Sadhna Srivastava)
Judicial Member


(M.P. Singh)
Vice Chairman

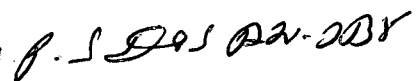

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पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....

पतिलिपि अर्जित:-

- (1) सचिव, उच्च न्यायालय काय एक्सेक्यूशन, जबलपुर
- (2) आदेश सं 51/412/05के काउंसल
- (3) प्रत्यक्षी श्री/श्रीमती, 73के काउंसल
- (4) मध्यपाल, कोषा, जबलपुर न्यायालय
सूचना एवं आवश्यक कार्यवाही हेतु

6-4-05
407 उप रजिस्ट्रार

 P. S. Das DA-208
 M. N. Bera DA-203

Issued
On 6.4.05
