

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 233 of 2003

Bilaspur this the 24<sup>th</sup> day of November, 2004

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

Shri Manish Shukla,  
aged 33 years,  
S/o D.S.Shukla  
R/o H-113, Shastri Nagar,  
Bhopal(M.P.)

APPLICANT

(By Advocate - Smt. S.Manon)

VERSUS

1. Union of India,  
Through: General Manager,  
Central Railway,  
C.S.T. Mumbai.
2. Senior Divisional Electrical  
Engineer(TRD)  
Central Railway,  
Bhopal.
3. Divisional Electrical Engineer  
(TRD), Central Railway,  
Itarsi.

RESPONDENTS

(By Advocate - Shri S.K. Jain)

O R D E R

By M.P.Singh, Vice Chairman-

By filing this OA, the applicant has sought the following  
main reliefs :-


"i) set aside the Memorandum of chargesheet as also the entire procedure initiated thereof resulting in the issuance of the order of removal dated 9.10.1999 Annexure-A-9 passed by respondent No.3 as also order dated 14.2.03 Annexure A-14 passed by respondent No.2.

ii) direct the respondents to reinstate the applicant with full back wages together with all other ancillary and consequential service benefits."

2. The brief facts of the case are that the applicant was working as Senior Clerk under the respondent-Railways.

According to the applicant he fell ill and took treatment from different doctors during the period from 15.4.98 to 4.8.99. The applicant was issued a charge sheet by the respondents on 21.10.98. An enquiry has been conducted by the respondents, and thereafter the disciplinary authority has imposed the penalty of removal from service on the applicant vide order dated

9.10.99. According to the applicant even before the issuance of the said order of removal from service, no show cause notice was given nor copy of the enquiry report was made available to him. Aggrieved by the order of removal, the applicant preferred an appeal to the Senior Divisional Electrical Engineer(TRD) Central Railway, Bhopal/respondent No.2 within the stipulated period. In his memo of appeal, the applicant categorically submitted that the order is illegal, arbitrary and that the decision taken was ex-parte, inasmuch as, he was prevented from attending the enquiry. The applicant has further submitted that on the one hand the Senior DEE(TRD) issued letter to D.M.O, Itarsi to examine the applicant for special medical fitness certificates and on the other hand, the Enquiry Officer insisted for a relieving order to attend the enquiry proceedings, which the office declined to give. In other words, on the one hand the applicant was prevented from performing his duties while on the other hand he was prevented from attending the enquiry. Since the appeal was not considered by the appellate authority, the applicant submitted reminders on 6.3.2000, 14.7.2000, 5.2.2001 and 6.7.2001. Thereafter, yet another supplementary appeal was despatched through registered post on 31.8.2002. <sup>by him</sup> Additional ground ~~that was taken~~ <sup>was</sup> that no show cause <sup>the</sup> notice was given to applicant before the impugned order of removal was passed and that even the copy of the Enquiry Report was not made available to <sup>the</sup> applicant. As the appeal was not considered, nor communication of the decision made thereof, the applicant vide his application of 12.11.2002 informed the authorities that despite submission of appeal and reminders thereof, the authority concerned has not pondered upon without any reasons and therefore, if the same is not done, he would be compelled to move the Central Administrative Tribunal. On receipt whereof, respondent no.2 issued the order dated 14.2.2003 wherein it has been mentioned that the appeal of 4.11.99 has not been received



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by the office and that the actual appeal of 31.8.2002 is barred by time and therefore, rejected.

3. Heard the learned counsel for the parties.

4. We have given careful consideration to the rival contentions. We find that the applicant has been removed from service on the ground of unauthorised absence from duty. We find from Annexure-A-14 dated 14.2.2003 that the appeal of the applicant has been rejected by the appellate authority as it was received after expiry of the stipulated period. Keeping in view the facts and circumstances of the case we deem it appropriate that ends of justice would be met if we direct the applicant to file a fresh appeal to the appellate authority within a period of six weeks from the date of receipt of a copy of this order. If he complies with this, the appellate authority is directed to consider it on merit without taking the ground of limitation and decide the same by passing a speaking, reasoned and detailed order within a period of three months from the date of receipt of such an appeal and communicate the same to the applicant promptly.

5. In the result, the OA is disposed of in the above terms. No costs.

(A.K.Bhatnagar)  
Judicial Member

(M.P.Singh)  
Vice Chairman

skm पृष्ठांकन सं ओ/व्या.....जबलपुर, दि.....  
पतिलिपि वांछित:-

(1) सचिव, उच्च न्यायालय काट एम्प्लोयेशन, जबलपुर

(2) आवेदक श्री/श्रीमती/पु.....के काउंसल

(3) प्रत्यर्थी श्री/श्रीमती/पु.....के काउंसल

(4) बंगाल, के.प्र.अ., जबलपुर न्यायापीठ

सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

Issued  
On 2-12-04  
BS

Per S. Menon Adv. 287  
S.K. Jadhav Adv. 287