

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH  
JABALPUR

Original Application No. 243 of 2003

Jabalpur this the 18th day of August, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Mr. A.K. Bhatnagar, Member (J)

Harilal Ramai S/o Ramai, aged 52 years, Ex-Helper Khalasi  
New Kathni Junction, R/o Ram Nivas Singh Ward Bhatta Muhalla  
Harijan Basti, Katni (M.P.)

Applicant

By Advocate Shri H.S. Verma

Versus

1. Union of India through General Manager, Western Central Railway, Jabalpur.
2. General Manager, Western Central Railway, Jabalpur.
3. Divisional Rail Manager, Western Central Railway, Jabalpur.
4. Senior Divisional Mechanical Engineer, Western Central Railway, D.R.M's Office, Jabalpur.

Respondents

By Advocate Shri N.S. Ruprah

O R D E R ( Oral )

By Hon'ble Mr. M.P. Singh, Vice Chairman

By filing this O.A. applicant is claiming  
the following reliefs :-

"8.1 That this Hon'ble Tribunal be pleased to  
quash an order of removal from service issued  
vide annexure A-1 declaring the same as dispro-  
portional and excessive and modify the same  
substituting by an appropriate punishment.

8.2 That the order of the appellate authority  
passed vide order dated 03.05.2002 enhancing the  
...pg.2/-

penalty to that of dismissal from service be quashed. Since the same has been issued without application of mind and also has been issued beyond the time limit of six months prescribed under the D&A Rules, 1968.

8.3 That the order of the appellate authority dated 21.10.2002(annexure A-3) be quashed on the ground that the same can have no retrospective effect and same be declared as unavailed.

8.4 Any other writ/direction as this Hon'ble Tribunal think deems fit and proper in view of the facts of the case."

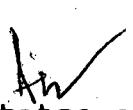
2. The brief facts of the case are that the applicant was working as Helper Khalasi. He was on sanctioned leave ~~w.e.f.~~ <sup>SY</sup> from 13th to 18th May, 1999, ~~for duty~~ <sup>2</sup>. Thereafter, the applicant had not turned up and was on unauthorised leave till a charge sheet was issued on 22.03.2000. As per the admission of the applicant, he has received the copy of charge sheet in June, 2000 but he did not reply to the charges levelled by the respondents against him. He even did not participate in the inquiry/was held by the respondents due to his unauthorised absence, as ex parte. The charges were proved against the applicant and the applicant was imposed penalty of removal from service vide disciplinary authority's order dated 01.10.2001. He filed an appeal challenging the order of disciplinary authority. The appellate authority has issued a notice for enhancement of the penalty and the appellate authority by its order dated 03.05.2002 has enhanced the penalty ~~of~~ <sup>from</sup> removal to dismissal from service. It is not disputed that the applicant was on unauthorised leave and he was also sent the charges levelled against him. ~~Exxxx the xxxxxxxxx~~

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3. During the course of arguments, learned counsel for the applicant has submitted that as per the provisions of Rule 25 of Railway Servant (Discipline & Appeal) Rules, 1968 the penalty cannot be enhanced beyond <sup>a period of</sup> more than 6 months from the date of the order. The learned counsel for the respondents on the other hand has submitted that the said rule relates to Revision whereas in the present case, the order has been passed by the appellate authority under Rule 22 of the Railway Servant (Discipline & Appeal) Rules and, therefore, this contention of the applicant has no force and is liable to be dismissed. We are in full agreement with the submission made by the respondents.

3.1 From the record, we find that the applicant has not co-operated with the respondents in holding the enquiry proceedings and as he did not participate in the enquiry, he was wholly responsible for the delay in conducting the enquiry. In this case, we find that the respondents have conducted the enquiry for unauthorised absence as per the laid down procedure. They have given ample opportunities to the applicant to defend himself but same have not been availed by the applicant. Thus, the principles of natural justice have been followed by the respondents. It is a well settled legal proposition that the Tribunal cannot reappraise the evidence and also cannot go into question of quantum of punishment. We, therefore, cannot interfere with the orders passed by the respondents.

4. In the result for the reasons stated above this OA is devoid of merit and is accordingly dismissed. No costs.

  
(A.K. Shatnagar)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

/mrm/