

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT CAMP AT BILASPUR

Original Application No. 349 of 2003

Jabalpur, this the 10th day of February, 2005

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

Nagina Pandey, Aged about 58 years,
S/o R.S. Pandey, Token No.146, Technician
Grade-I, Marshalling Yard, South Eastern
Railway, Bhilai, District-Durg(CG)

APPLICANT

(By Advocate - Shri M.K. Verma)

VERSUS

1. Union of India,
Through the Chairman, Railway Board,
New Delhi.
2. General Manager,
South Eastern Railway,
11, Garden Reach Road,
Calcutta-3.
3. Divisional Railway Manager,
South Eastern Railway,
Bilaspur.
4. Assistant Divisional Electrical Engineer
(TRS) South Eastern Railway, Marshalling
Yard, Bhilai, Dist-Durg(Chhatisgarh).
5. A.K. Sinha, Senior Section Engineer(M)
Enquiry Officer, South Eastern Railway,
Marshalling Yard, Bhilai, Dist-Durg
(Chhatisgarh)

RESPONDENTS

(By Advocate - Shri M.N. Banerjee)

O R D E R

By Madan Mohan, Judicial Member -

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

"8.1 to quash the impugned order dated
23.11.2002(Annexure A-7) and order dated 2.4.2003(Annexure A-9), in the interest of justice.

8.2 to quash the charge sheet dated 26.6.2002,
in the interest of justice.

8.3 to quash the Ex-parte Inquiry Report dated
9.10.2002, in the interest of justice.

8.4 That this Hon'ble Court may hold the act of
respondent Department to be illegal and bad and may
further be pleased to call for the duty register dated
20.9.2002 and other record for perusal of this Hon'ble
Tribunal.

8.5 to hold that the act of Inquiry Officer in
holding Ex-parte Inquiry without any opportunity of hearing
to the applicant is bad in the eyes of law."

(Signature)

1: 2 ::

2. The brief facts of the case are that the applicant was issued with a charge sheet on 26.6.2002, whereby a single charge was alleged against the applicant. He was not supplied with the copy of the document mentioned in Annexure-III of the charge sheet, therefore, he had submitted a representation dated 31.7.2002. Without considering the request of the applicant and without supplying him the concerned document, the inquiry officer was appointed. Thereafter the inquiry officer on 7.9.2002 has intimated the applicant that the date in the inquiry has been fixed as 20.9.2002. The applicant requested to postpone the inquiry to any other short date for urgent reason and it was postponed. The applicant was shocked on 9.10.2002 when he was supplied with a copy of the inquiry report submitted by the enquiry officer inwhich the charges have been proved against the applicant. Against this enquiry report, the applicant has categorically submitted his representation stating that the enquiry officer did not follow the mandatory procedure according to rules. This representation was rejected by the disciplinary authority vide order dated 23.11.2002(Annexure-A-7) and the applicant was imposed with a penalty of reduction of basis pay of Rs.5625/- in pay scale of Rs.4500-7000, by 9 stages with fixation of his pay at Rs.4500/- for a period of 9 months with non-cumulative effect. Against this order the applicant has submitted his appeal dated 9.12.2002(Annexure-A-8) which was also rejected vide order dated 2.4.2003(Annexure-A-9) by the appellate authority without considering the case of the applicant. Hence this OA.

3. Heard the learned counsel for the parties and perused the records carefully.

4. During the course of the arguments, the learned counsel for the respondents has stated that the applicant has not availed the departmental remedy, i.e. he has not filed the Revision Petition and before availing all the statutory remedy,



the applicant has approached this Tribunal. He further submitted that the applicant be therefore, directed to first avail all the departmental remedies by way of filing revision petition before coming to the Tribunal. In support of his arguments he has drawn our attention to the judgment passed by the Principal Bench of this Tribunal on 22.4.2003 in OA No.2113/02. The learned counsel for the applicant has stated that the revision petition is not mandatory and he has filed an appeal against the order passed by the disciplinary authority which was rejected by the appellate authority vide order dated 2.4.2003(Annexure-A-9).

5. After hearing the learned counsel for the parties, and on careful perusal of the records, we find that the order passed by this Tribunal in OA No.345/03 decided on 7.10.2004 in the case of Girdharilal Raikwar Vs. UOI & Ors. and the order of Principal Bench of this Tribunal passed on 22.4.2003 in OA No.2113/02 fully applies to the present case. We, therefore, without going into the merits of the case, direct the applicant to file a revision petition to the respondents within two months from the date of receipt of a copy of this order. If he complies with this, the respondents are directed to consider and decide the revision petition of the applicant within three months from the date of receipt of a such revision petition by passing a speaking, detailed and reasoned order. We however, make it clear that the respondents will not take the plea of limitation while deciding the revision petition of the applicant.

6. In view of the aforesaid terms the Original Application is disposed of. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman