

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No. 603/03

Jabalpur, this the 17th day of ~~December~~ 2004

CO R A M

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

Kashi Ram Tiwari
S/o Beni Madhav Tiwari
R/o Tripathi Sadan
Near Neeraj Talkies
Gopal Bag, Gayatri Nagar
Katni

Applicant

(By advocate Shri S.Paul)

Versus

1. Union of India through
its General Manager
West Central Railway
Jabalpur.
2. The Divisional Railway Manager
West Central Railway
Jabalpur.
3. The Divisional Operating Manager
West Central Railway
Jabalpur

Respondents

(By advocate Shri M.N.Banerjee)

ORDER

By Madan Mohan, Judicial Member

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

- (i) Set aside the impugned order dated 30.7.02 (Annexure A1).
- (ii) Direct the respondents to provide all consequential benefits to the applicant as if the order dated 30.7.02 is never passed.

2. The brief facts of the case are that the applicant while working as Pointsman 'A' under the respondents was served with a major penalty charge sheet dated 24.11.94 (Annexure A2). Material documents were not supplied to the applicant which were utmost necessary and adequate opportunity of defence was also not given to the applicant by the enquiry officer. The applicant's representation against the enquiry officer's report could not fetch any result and without considering and assigning any reason, punishment order dated 18.8.01 (Annexure A6) was passed dismissing the applicant from service. The applicant filed an OA No.385/02 which was decided by the Tribunal vide order dated 20.3.03. The Tribunal held that the order of the disciplinary and appellate authority is not a speaking order. The applicant was reinstated by the respondents on 29.7.2003 and was terminated on 30.7.03, just a day before his retirement. It shows that the respondents have no regard for the orders of the Tribunal. Hence this OA is filed.

3. Heard the learned counsel for the parties. It is argued on behalf of the respondents that the applicant has not exhausted departmental remedy and has filed this OA without preferring an appeal against the order passed by the disciplinary authority. Learned counsel for the applicant argued that the punishment awarded to the applicant is too harsh as the services of the applicant were terminated on the ground of non-compliance of an order alone. We have perused the order dated 30.7.03 (Annexure A1). The punishment awarded to the applicant seems to be harsh and it shocks our conscience but as the applicant has not filed any appeal against the order of the disciplinary authority, we deem it appropriate to direct the applicant to avail the departmental remedy as per rules.

4. Therefore, the applicant is directed to file an appeal against the impugned order within a period of one month from today. If the applicant complies with this, then the respondents are directed to consider the same and impose any other punishment on the applicant other than termination,



removal and compulsory retirement, without insisting on the period of limitation in filing the appeal, within a period of 4 months after receipt of memo of appeal to be filed by the applicant.

5. The OA is disposed of as above. No costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

aa.

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

प्रतिलिपि जाये जितना:-

- (1) सचिव, उच्च न्यायालय एवं एडमिनिस्ट्रेशन, जबलपुर
- (2) आवेदन शी/जीए/ए/.....के कार्डसल
- (3) प्रत्यक्षी शी/जीए/ए/.....के कार्डसल
- (4) बंधपत्र, कोषदा, जबलपुर न्यायाधीश सूचना एवं आवश्यक कार्यावाही हेतु

उप रजिस्ट्रार

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BS