

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 623 of 2001

Jabalpur, this the 11th day of May, 2004

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

Heeralal son of Sunderlal Sarathe,  
aged about 49 years, resident of  
Village Pipaldhana, Tahsil Itarsi,  
District Hoshangabad (MP).      ... Applicant

(By Advocate - Shri A.B. Khan)

V e r s u s

1. Union of India,  
through Secretary Department of  
Engineering, Central Railway,  
V.T. Mumbai.
2. Divisional Railway Manager,  
Central Railway, Bhopal,  
Madhya Pradesh.
3. Assistant Mechanical Engineer  
(Diesel) Central Railway, Itarsi,  
District Hoshangabad.
4. Senior Divisional Mechanical  
Engineer (D) Office, Itarsi MP.    ... Respondents

(By Advocate - Shri S.P. Sinha)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant has  
claimed the following main reliefs :

- i) to issue a writ in the nature of certiorari  
speaking order Annexure A-2 may kindly be quashed,
- ii) to issue a writ in the nature of mandamus  
directing the respondents to allow the applicant to  
work in the Department.

2. The brief facts of the case are that the applicant  
was working in the Railways as Diesel Helper Khalasi. While  
working as such, a charge sheet was issued to him and vide  
order dated 8.7.1999 the applicant was removed from the  
service. The charge levelled against the applicant was  
that he was absent from his duty from 8.10.1996 to 2.1.97,

unauthorisedly. An enquiry was held and the charges against the applicant were held proved. The disciplinary authority has imposed the penalty of removal from service on the applicant vide order dated 8.7.1999. The applicant preferred an appeal against the order of the disciplinary authority and the appellate authority vide its order dated 19.1.2000 has rejected the appeal of the applicant. Thereafter the applicant preferred a revision petition which was also rejected by the revisional authority vide order dated 21st March, 2000. The applicant has challenged these orders in the present OA and has prayed for direction to quash these orders.

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

4. We find that the disciplinary authority while imposing the penalty of removal from service on the applicant vide order dated 8.7.1999 has taken into consideration the past conduct of the applicant. The past conduct of the applicant was not a part of the charge sheet. The applicant was not given any opportunity to defend himself against his past conduct which has been taken into consideration by the disciplinary authority. Thus the opportunity of hearing has been denied to the applicant and the principle of natural justice has been violated by the disciplinary authority. It is settled legal proposition that when any adverse order is passed against the Government employee he should be given an opportunity of hearing. In this case the disciplinary authority has taken the past conduct into consideration, while imposing the penalty of removal from service and hence this order passed by the disciplinary authority dated 8th July, 1999 is not sustainable in the eye of law.

5. We, therefore, quash and set aside the orders passed by the disciplinary authority, appellate authority and revisional authority and remit back the case to the disciplinary authority. The disciplinary authority is directed not to consider the past conduct of the applicant while passing fresh orders, if he so desires. Accordingly, the Original Application is allowed. No costs.

  
(Madan Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

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पृष्ठांकन सं. दो/व्या.....जनवर्षाः, वि.....

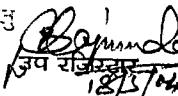
ठिकाना/पात्र वापरिताः—

- (1) राजीव राजा, विवाह विद्युत विभाग, अब्दलपुर
- (2) आवेदन विभाग, विवाह विद्युत विभाग काउंसल
- (3) एवरेज विभाग, विवाह विद्युत विभाग काउंसल
- (4) विवाह विद्युत विभाग, विवाह विद्युत विभाग काउंसल

AB Khan

SP Sinha

सूचना एवं आवेदन घारांकी हेतु

  
ज्येष्ठ 18/3/70