

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 191 of 1997

Jabalpur, this the 5th day of August, 2003

Hon'ble Shri J.K.Kaushik - Judicial Member
Hon'ble Shri Anand Kumar Bhatt-Administrative Member

Shri Gulab Singh Patel
S/o late D.L.Patel, aged..
R/o 147, Shrinath ki Talaiya,
Jabalpur

- Applicant

(By Advocate - Shri Rakesh Pandey)

Verma

1. Union of India, through its Secretary,
Ministry of Railway, New Delhi.
2. The Divisional Railway Manager,
Jabalpur.
3. Sr.D.M.E.(Diesel).
4. D.M.E.Diesel

New Katni Jn. Distt. Jabalpur

- Respondents

(By Advocate - Shri H.B. Shrivastava)

O R D E R

By Anand Kumar Bhatt, Administrative Member - .

By this Original Application, applicant Gulab Singh Patel has challenged the order dated 14.9.1995 (Annexure-A-8) removing him from service. He filed an appeal but at the time of filing the OA it was not decided. However, it has come in the records that the appeal was rejected vide order dated 12.12.1995 (Annexure-R-7).

2. Brief facts of the case are that the applicant was appointed as Diesel Cleaner on 2.6.1981 and was promoted to the post of Helper Khalasi. He was absent from duty without any application or intimation from 19.8.1994 to 1.8.1995 i.e. almost for a year. A major penalty charge sheet was issued, which was duly served on the applicant on 25.3.1995. An enquiry officer was appointed. The date of enquiry was intimated to the applicant which according to the respondents was received by him. However,

the intimation regarding the date of enquiry was sent to the applicant by registered acknowledgement due letter but the same came back undelivered. Another date was fixed but the applicant did not attend on that date as well. In the circumstances, an enquiry report was submitted by the enquiry officer on 18.7.1995. The applicant submitted his explanation to the respondent, no33 on 20.7.1995 that he did not himself remain absent intentionally or deliberately but was absent due to his sickness and was seriously confined to bed. However, the respondents in their reply have stated that the applicant had made a representation before the disciplinary authority on 23.8.1995 and not on 20.7.1995. The applicant was removed from service by order dated 14.9.1995. According to the applicant, the said order of the disciplinary authority is arbitrary and passed with malafide intention and deserves to be set aside.

3. The applicant has cited a case of Kamal Banshi Vs. Union of India and others, O.A.No.561 of 2000 decided by this Tribunal on 5.5.2003. In the said case the punishment was found excessive and disproportionate to the misconduct and shocking to the conscience and, therefore, the said OA was partly allowed.

4. The respondents have stated that the applicant absented himself without any application or intimation for almost a year and, therefore, an enquiry was started against him. In spite of the knowledge about the appointment of enquiry officer, the applicant did not attend the enquiry and, therefore, the enquiry officer submitted his report on the basis of which the charge-sheet was issued to the applicant. The medical certificate filed by the applicant was found to be not reliable. The order passed by the disciplinary authority is a well reasoned order and does not suffer from any defect or lacuna. The appeal filed by the applicant was also rejected. All reasonable opportunity was given to the applicant to come forward his defence but he preferred to remain silent.

awarded is disproportionate to the delinquency on the part of the applicant and in such a case a minor penalty would serve the purpose.)

7. Accordingly, the Original Application is partly allowed. The order of punishment dated 14.9.1995 (Annexure-A-8) and that of appellate authority dated 12.12.1995 (Annexure-R-7) are quashed. However, the applicant shall be entitled to all consequential benefits except back wages for the period of absence, ~~and~~ ^{and in} during the period the applicant was removed from service as a result of the punishment till the time he rejoins as a consequence of this order. However, the respondents will be at liberty to impose a minor penalty on the applicant after following the due process. This order shall be complied with by the respondents within a period of three months from the date of communication of this order. No costs.

Anand Kumar Bhatt
(Anand Kumar Bhatt)
Administrative Member

J.K.Kaushik
(J.K.Kaushik)
Judicial Member

rkvs.

प्राप्तिकार सं ओ/प्या..... जलालपुर, दि.....
(1) रामेश्वर मुख्यमन्त्री, ओडिशा.....
(2) रामेश्वर मुख्यमन्त्री, ओडिशा.....
(3) रामेश्वर मुख्यमन्त्री, ओडिशा.....
(4) रामेश्वर मुख्यमन्त्री, ओडिशा.....

R. Pandey - 1700
H.B. Srivastava - 900
Issued on 7.8.03
J. K. Kaushik - 718103
J. K. Kaushik - 718103

Issued
on 7.8.03