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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH.

CAMP AT BILASPUR (CHHATTISGARH)

Original Application No. 576 of 1999

Bilaspur, this the 22nd day of September, 2003

Hon'ble Shri Anand Kumar Bhatt, Administrative Member

Chainea, S/o. Shri Chhotahari,
Points Man 'A', Resident of H.No
10/1, Railway Colony, (P.O.),
Karigi Roads, District-Bilaspur (MP).
(By Advocate - None)

.... Applicant

V e r s u s

1. Union of India -
through - Secretary,
Ministry of Railways,
Rail Bhavan, New Delhi.

2. The General Manager,
South Eastern Railway,
Garden Reach,
Calcutta-700-043.

3. Sr. Divisional Personnel Officer,
South Eastern Division,
Bilaspur, Bilaspur (M.P.).

.... Respondents

(By Advocate - Shri S.P. Shrivastava)

O R D E R (Oral)

This case was taken up at Bilaspur on the request of learned counsel for the applicant. However nobody is present today. Earlier the Original Application was dismissed for non-prosecution on 29th March, 2000 which was later restored. In such circumstances it has been decided to take up the case under Rule 15(1) of the C.A.T.(Procedure) Rules for decision on merits.

2. The relief claimed is quashing of removal order dated 27.04.1994 (Annexure A-1), appellate order dated 13.12.1994 (Annexure A-2) and the order treating the period between removal from service and the reinstatement as break in service, with all consequential benefits.

3. The facts of the case in brief are that in surprise inspection the applicant who was working as CLM, East Cabin/
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KGB at Karangi Road was found in drunken condition and sleeping on the floor of the cabin. Departmental proceedings for major penalty were started and the disciplinary authority vide order dated 25.04.1994 imposed the penalty of removal from service with immediate effect. In appeal the order of punishment of removal was converted to reduction in rank i.e. to the post of Porter at the basic pay of Rs. 750/- per month. However the period of removal from service was treated as ^{break} back in service (Annexure A-2). The applicant had come to the Tribunal in OA No. 208 of 1995, wherein the Tribunal held the orders of disciplinary and appellate authorities as valid. However the case was remitted to the appellate authority to clarify the order which was not very clear. The appellate authority was also directed to reconsider the order of break in service as that would mean that the entire service of the applicant till his removal would be totally washed away even for the purpose of grant of pensionary benefits. Accordingly the applicant was informed on 23.10.1998 (Annexure A-4) that the competent authority has decided to treat the intervening period as included for pensionary benefits. Accordingly the applicant was paid pensionary benefits. The present Original Application is against the said appellate order and the earlier order of punishment (Annexure A-1). As far as the grievances of treatment of the intervening period as ^{break} ~~fit~~ in service, that has already been redressed vide Annexure A-4.

4. We have seen the pleadings of both the sides and heard the learned counsel for the respondents who is present.

5. Whereas it can be argued that after the case has been remitted by the Tribunal with certain remarks, the applicant can come again having the same grievance as it was original in the Original Application, ^{However, it can be done} only when in the original OA the orders of the disciplinary authority and the appellate authority have not been considered. This is not the case here as the

Tribunal's order in O.A. No. 208 of 1995 has considered both the orders of disciplinary authority and appellate authority and has ^{In them} held to be valid. Therefore the applicant cannot come for the redressal of the same grievances in the present Original Application. As regards break in service, the competent authority has taken a compassionate view and the break in service has already been cancelled for pensionary benefits and accordingly the applicant has been given the pensionary benefits.

6. In the circumstances I do not find that any more relief can be given to the applicant in the present Original Application. Accordingly the Original Application is dismissed. No costs.

Anand Kumar Bhatt
(Anand Kumar Bhatt)
Administrative Member

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पृष्ठकन सं ओ/न्या..... जलनपुर, दि.....
उपस्थिति:

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- (2)
- (3)
- (4)

Adel
V. G. Ramaskar, Durg
S. P. Shrivastava Adel

Forwarded
7/10/03

J. K. Sharma
6/10/03