

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 620 of 2000

Jabalpur, this the 6<sup>th</sup> day of May, 2004

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

Manoharlal Vishwakarma, Son of  
Fitoorilal Vishwakarma, Aged about  
40 years, Retired Technician III  
(Mechanical), Ticket No. 652, Diesel  
Shed/NKJ Katni (MP), Resident of House  
No. 645, Roshan Nagar, Near Hanuman  
Temple, District - Katni (MP).

... Applicant

(By Advocate - Shri B.P. Sharma)

V e r s u s

1. Union of India, through  
General Manager, Central Railway,  
CST, Mumbai (Maharashtra).

2. Additional Divisional Railway  
Manager, Central Railway,  
Jabalpur (MP).

3. Senior DME (D),  
Central Railway, New Katni  
Junction, Katni (MP).

... 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  
claimed the following main reliefs :

"(i) to command the respondents and quash the  
impugned order dt. 5/7.2.2000 (Annexure A-7) and  
appellate order dated 19.6.2000 (Annexure A-9)  
alongwith all consequential service benefits including  
backwages."

2. The brief facts of the case are that the applicant  
was appointed under the respondents on 26.6.1984. He was  
charge sheeted vide letter dated 2.7.1996 (Annexure A-1) and  
in this charge sheet the authority concerned has levelled  
the allegation against the applicant for the incident dated  
30.6.1996 regarding allegation of misbehave with the higher  
authority. On 13.6.1996 when the applicant was on duty, the

Divisional Mechanical Engineer (D) Mr. H.K. Raghu had come on the spot and misbehaved and abused the applicant in the filthy language and the applicant has submitted requests before the higher authority on 1.7.1996. He also lodged a FIR against the said authority with two witnesses. Mr. H.K. Raghu also lodged a counter criminal case against the applicant. During pendency of the criminal case/investigation the applicant was charge sheeted by the authority concerned and there was no charge sheet issued against Shri H.K. Raghu. Therefore the action of the respondents is discriminatory and not in accordance with law. During the enquiry the applicant made a request before the enquiry officer regarding absence of the defence assistant and also stated that in absence of the defence assistant, the applicant is unable to cross-examine the departmental witnesses and seeks time for adjournment. But the enquiry officer has not granted any opportunity and violated the principles of natural justice. Hence the action taken by the authority concerned is liable to be set aside. The enquiry officer has submitted his report on 17.12.1997 to the higher authority, in which the enquiry officer has proved the charges levelled against the applicant without evidence of complainant Mr. H.K. Raghu. The disciplinary authority passed the impugned order dated 5.2.2000 by which the applicant was compulsorily retired from Railway service. The applicant filed an appeal before the appellate authority and the appellate authority also rejected the appeal and upheld the orders of the disciplinary authority. Aggrieved by this the applicant has preferred this Original Application claiming the aforesaid reliefs.

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

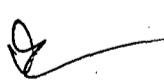
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4. On perusal of the records we find that the appellate authority while passing the order dated 19.6.2000 (Annexure A-9) has permitted the applicant to file a review petition. The applicant has not filed any revision petition. The relevant part of the appellate order is extracted below :

"Under Rules 25 RS(D&A) Rules, 1968, revision against these order lies to CMPE (Diesel) MB CST.

The revision shall be preferred in your own name and under your own signature and presented within 45 days from the date you receive the orders to the Reviewing Authority, serving a copy of the same to the undersigned."

5. Hence this Original Application is disposed of with direction to the applicant to file revision petition, if not filed earlier against the order of the appellate authority, ~~to the revisional authority~~, as directed by the appellate authority, ~~within a period of~~ one month from the date of receipt of copy of this order. If the applicant complies with the aforesaid order, the ~~is a~~ revisional authority ~~is~~ directed to dispose of the said revision petition, by passing a speaking, detailed and reasoned order within a period of two months from the date of receipt ~~is a~~ of the revision petition. The revisional authority ~~also~~ directed that while deciding the review petition of the applicant he ~~will~~ not take the plea of limitation and will decide the review petition on merits. The applicant is also directed to send a copy of this order to the respondents. No costs.

  
(Madan Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman