

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

original Application No. 780 of 1998

Jabalpur, this the 1st day of July 2003.

Hon'ble Shri D.C. Verma, Vice Chairman (Judicial)
Hon'ble Shri Anand Kumar Bhatt, Administrative Member

Teji Singh, S/o. Gorelal, aged
about 55 years, working as Line
Enquiry Peon under Chief Yard
Master-New Katni Jn-Central Railway,
Jabalpur Division, R/o. Rly Qr No.
RBI - 15/B-Steam Colony, New Katni
Jn-Via Katni M.P.

... Applicant

(By Advocate - Dr. R.K. Gupta)

V e r s u s

1. Union of India, through
General Manager, Central
Railway, Mumbai C.S.T.
2. Divisional Railway Manager,
Central Railway, Jabalpur.

(By Advocate - Shri N.S. Ruprah)

O R D E R (Oral)

By D.C. Verma, Vice Chairman (Judicial) -

The applicant has claimed that the respondents be directed to condone the period of absence from 12.4.85 to 11.6.85 as per provisions of FR 54 and pass necessary orders with regard to the treatment of the above period as period spent on duty.

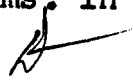
2. The brief facts of the case is that the applicant was removed from service vide order dated 12.4.85 and appealate order dated 11.6.85 (Annexure A/3). In the appealate order it was provided that the applicant shall be taken on job as "Fresh Appointee". Consequently the applicant was appointed as a "Fresh Appointee". The



relief claimed in the present OA is to condone the absence period from 12.4.85 i.e. date of removal to 11.6.85 i.e. the date of the engagement as fresh appointment. As no order has been passed by the respondents as per FR 54, hence this OA.

3. We have heard the parties at length. A reading of provisions of FR 54 shows that it applies only in the cases where Railway servant who has been dismissed, removed or compulsorily retired is "reinstated in appeal or review". In the present case the applicant has not been reinstated. Consequently the provision of FR 54 does not apply.

4. The learned counsel for the applicant further submitted that the order passed by the appellate authority appointing the applicant as fresh appointee was not in accordance with law and was beyond the powers given to the appellate authority, hence the same is not valid. We are afraid to entertain this argument at this stage because the applicant was removed in the year 1985 and the applicant has come to this Tribunal in the year 1998. Besides that in the relief clause there is no prayer to quash the appellate order Annexure A/3, dated 11.6.85. Consequently this question cannot be deliberated. The learned counsel for the applicant has placed reliance on the decision of a Division Bench of this Tribunal in OA No. 522/1994 in Mrs. Sheela Nathaniel Williams Vs. Union of India & Ors., decided on 3rd December 1996. The submission is that the facts of the present case is also similar to the facts of the cited case of Mrs. Sheela N. Williams. In the cited case the




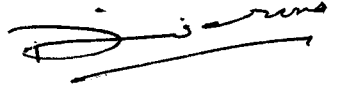
appellate authority had passed an order of appointment as fresh entrant in the services and had also directed that her past services will not count for any purpose. That order was however not specifically quashed by the Tribunal. But it was observed that the applicant would be entitled to count her past services for the purpose of pension and other benefits as per rules. Thus the period served by the applicant therein from the date of removal to re-engagement was to be counted for pension. In the present case learned counsel for the respondents has come out with submission that the applicant is in service and still not retired. It is admitted by the counsel for the applicant that the applicant will retire this year in October. The submission of the learned counsel for the respondents, that the question whether the period served by the applicant prior to his removal would or would not be counted for the purpose of pension is to be decided at the appropriate time by the appropriate authority and as that period is not covered by FR 54, the relief in respect of that period be not given. We are in full agreement with the submission of the learned counsel for the respondents on this point. The respondents are to take decision at the appropriate time. It is for them to consider the decisions of this Tribunal in OA No. 522/1994 on this aspect and after examining the case of the applicant in the light of the rules and regulations on the point to decide the pension matter.

5. The relief as claimed in the Original Application cannot be granted so the original application is



dismissed. Cost easy.


(Anand Kumar Bhatt)
Administrative Member


(D.C. Verma)
Vice Chairman (J)

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पृष्ठकन सं ओ/न्या.....जबलपुर, दि.....

पलिलिपि लप्ये निरा:-


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सूचना एवं आवश्यक कार्रवाई हेतु


रजिस्टर 8.7.73

Isabel
9/7/73

R. K. Gupta (200)
NSR Gupta