

# **Central Administrative Tribunal Principal Bench, New Delhi**

O.A.No.1483/2013

Reserved on 28<sup>th</sup> August 2018

Pronounced on 28<sup>th</sup> September 2018

**Hon'ble Mr. K.N. Shrivastava, Member (A)  
Hon'ble Mr. Ashish Kalia, Member (J)**

Shri S L Choudhary  
s/o late Shri Nathu Lal  
working as Ex. Commercial Clerk  
under North Central Railway, Agra Cantt. UP

(Mr. Ram Kumar, Advocate)

..Applicant

Versus

1. The Secretary, Ministry of Railway  
Railway Board, Rail Bhawan, New Delhi

2. The General Manager  
North Central Railway, Allahabad, UP

3. The Divisional Railway Manager (DRM)  
North Central Railway, Agra (UP)

4. The Divisional Railway Manager (DRM)  
Jhansi Division, NCR, Jhansi, UP

5. Deputy Chief Personnel Officer (Headquarter)  
Central Railway, Mumbai, Maharashtra

..Respondents

(Mr. V S R Krishna and Mr. A K Shrivastava, Advocates)

## **O R D E R**

### **Mr. K.N. Shrivastava:**

The applicant was working as a Reservation Clerk in the respondents

– railway department. He was subjected to disciplinary enquiry proceedings, which culminated in passing of the Annexure A-1 order dated 02.04.1986 by the disciplinary authority removing him from service with immediate effect. The applicant was otherwise due to retire from service on

30.04.1989. His appeal against the order of the disciplinary authority was dismissed by the appellate authority vide order dated 21.10.1987 (p.14). The applicant challenged the orders of the disciplinary authority and appellate authority before the Tribunal in O.A. No.1038/2010, *inter alia*, stating that his representation dated 11.05.2009 has not been decided by the respondents. Accordingly, the Tribunal, vide order dated 24.05.2010, disposed of the said O.A. with the following observations:-

“4. In view of the above contentions conveyed by the counsel for Applicant, though the notice has been issued to the Respondents and they have not appeared in person or through their counsel, it is considered necessary not to wait further since the Applicant’s grievance is continuing. It will suffice for me to issue directions to the Respondent No.3, The Divisional Railway Manager, North Central Railway, Agra to examine the pending representations of the Applicant and consider the present OA as a supplementary representation for the Applicant and take a considered decision taking into account the extant guidelines, directions and instructions of the Railway Board. The said directed decision shall be taken within a period of two months from the date of receipt of copy of this order with a copy to the Applicant.”

2. In compliance of the *ibid* directions, the disciplinary authority has disposed of the representation of the applicant, which was communicated to the applicant vide Annexure A-11 (colly.) order dated 29.08.2012, which is a speaking order. The relevant portion of the order is reproduced below:-

“It is clear that you were removed from service due to Disciplinary action against you, far back in 1986. Your DAR case file is not available in this office, as you belong to the then Jhansi Division, hence, case pertains to then Jhansi Division. Jhansi Division is the custodian of their Division’s Papers/documents. It is pertinent to state that you have never made DRM, Jhansi Division as Respondent Party in your OA or RA even though you know that you were belonging to the then Jhansi Division.

Even though you know that you were removed from service & never reinstated in service on the basis of letter from Hon’ble then MOS (R) as alleged by him, you have not taken any efforts / pain for

further action or not bothered to chase up the matter with concerned authorities at relevant time. It shows that you were not interested in service at that time but now interested in back wages, settlement dues & pension etc. As DAR case pertains to 1986, now at this distant stage, it is not possible to intervene in the matter as you have not brought out any supporting facts / documents of DAR case. I, therefore, do not find any merit in the case/representation submitted by you & you are not eligible for any back wages and retirement benefit.”

3. The applicant has challenged Annexure A-11 (colly.) order dated 29.08.2012 in the instant O.A. praying for the following main relief:-

“a) Pass appropriate order or direction by allowing this present Original Application (O.A.) and direct all the respondents jointly to decide the Pending grievances of the Applicant and quash the speaking order dated 27-8-2012 passed by G.M., Central Railway, Mumbai which is illegal, malafide and without any basis.”

4. Pursuant to the notices issued, the respondents entered appearance and filed their reply, to which the applicant has filed rejoinder.

5. On completion of pleadings, the case was taken up for hearing the arguments of learned counsel for the parties on 28.08.2018. Arguments of Mr. Ram Kumar, learned counsel for applicant and Mr. V S R Krishna with Mr. A K Shrivastava, learned counsel for respondents were heard.

6. The main contention of learned counsel for applicant was that the then Minister of State for Railways had written Annexure A-2 letter dated 02.11.1987 to Mr. Vijay Singh Rana, MLA acknowledging the receipt of his letter dated 21.10.1987 in regard to reinstatement of the applicant in the railway service, which would indicate that the applicant's reinstatement was under consideration of the Railway Department. He further stated that the applicant has remained in the railway quarter till the date of his

superannuation on 30.04.1989 and that the relief claimed is of recurring in nature, for which the issue of limitation does not apply.

7. Mr. V S R Krishna, learned counsel for respondents submitted that the applicant has not challenged his order of removal from service or for that matter any such order. He vehemently argued that the applicant was removed from service long time back vide order dated 02.04.1986 (Annexure A-1) and he has never bothered to challenge the same. Even when he approached the Tribunal in O.A. No.1038/2010, he only mentioned that his representation dated 11.05.2009 is still pending. There was no mention of the removal order in the *ibid* O.A.

8. We have considered the arguments of learned counsel for the parties and perused the pleadings.

9. From the records, it is quite clear that the applicant was removed from service by the disciplinary authority vide order dated 02.04.1986. He has never challenged the said order, and as such, it has attained finality. The letter of Minister of State for Railways to Mr. Vijay Singh Rana, MLA does not give any kind of support to the applicant for seeking relief.

10. We are, therefore, of the view that there is no merit in this O.A. and the O.A. is severely hit by limitation. For these reasons, the O.A. is dismissed. No costs.

**( Ashish Kalia )**  
**Member (J)**

/sunil/

**( K.N. Shrivastava )**  
**Member (A)**