

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.2952 of 2016

This the 18th day of February 2019

**Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)**

Rahul Yadav, (41 years age)
S/o Sh. Narender Singh,
54D Block, Gali No.5,
Vashisth Park, Delhi.

.....Applicant
(By Advocate : Shri S.R. Jolly)

VERSUS

1. Divisional Railway Manager,
NR, Delhi Division,
New Delhi.
2. Sr. Divisional Commercial Manager,
Delhi Divn. Northern Railway,
New Delhi.
3. Divisional Comml. Manager (OBS)
Delhi Divn. Northern Railway,
New Delhi.

.....Respondents
(By Advocate : Shri S.M. Arif)

O R D E R (Oral)

Ms. Nita Chowdhury, Member (A):

Heard learned counsel for the parties.

2. By filing this OA, the applicant is seeking the following reliefs:-

- “i) Respondent may be directed to place the complete records pertaining to the suspension of the applicant before this Tribunal for its look into.
- ii) Quash and set aside the illegal, arbitrary suspension of the applicant.

- iii) Direct the respondents to assign the duties to the applicant without fail.
- iv) Direct the respondent to pay the full salaries for the period from 08.06.2011 till allotment of duties.
- v) Any other relief which this Hon'ble Tribunal deemed fit in the case."

3. Brief facts of the case are that the applicant while working as Catering Inspector at New Delhi Railway Station on 8.6.2011, was placed under suspension with immediate effect. According to the applicant, on 22.10.2012, Sr. Divisional Commercial Manager, vide his letter raised a query from CIC NDLS about non presence/absence of the applicant which was clarified and replied by the CIC on 25.10.2012. On 27.10.2012, Sr. Catering Inspector, N.R. Ctg. Unit, New Delhi further clarified that the applicant was ordered to be placed under suspension on 8.6.2011 on a message No.661 from Divisional Commercial Manager and intimation of suspension was passed on to the catering Deptt. NDLS then and there.

3.1 On 2.1.2013, the applicant submitted his representation to the Divisional Commercial Manager, D.R.M. office, New Delhi as also reminders on 25.4.2013, 25.7.2013, 24.1.2014, 10.11.2014. The applicant also represented to Sr. DCM, Delhi Divn. NR, New Delhi on 12/2014 and 6/2015. On 10.1.2016, the applicant further represented to Divisional Railway Manager, Delhi Division, NR, New Delhi.

3.2 Feeling aggrieved by inaction of the respondents, the applicant has filed this OA seeking the reliefs as quoted above.

4. Pursuant to notice, the respondents have filed their reply in which they stated that after suspension, the applicant never reported to the office or signed the attendance register as the applicant even after suspension neither approached the concerned officials/the dealing assistant nor filed any reply to the show cause to the suspension orders.

4.1 Respondents further stated that the applicant after unreported absence for about two years, allegedly sent a letter dated 2.1.2013, which is not traceable in the office and the applicant's case file is also missing. The applicant could have directly approached the concerned officer in order to get redressal of his grievances, as being a Railway employee he is well aware of the procedures of the department in such cases. The applicant intentionally neither met the Station Authorities nor the Divisional Office. Further the applicant did not even sign the reporting register on day to day basis, because of which, charge sheet could not even be served on him.

4.2 Respondents further stated that department has taken cognizance of the facts of the case and has initiated proceedings against all the erring officials with respect to the missing file.

4.3 They further reiterated that after suspension, the applicant was duty bound to report on daily basis and record his presence in office.

5. In the rejoinder, the applicant has stated that for failure of the respondents to trace his representations, the applicant cannot be blamed. Initiation of proceedings against all the erring officials with respect to the missing of the file is not tenable to continue the suspension of the applicant for more than seven years which is against the law laid down by the Supreme Court as well as against the rules of the Railway.

6. During the course of hearing both the counsel reiterated the averments as mentioned in their respective pleadings.

7. After noting the contents and averments of both the parties and after perusing the pleadings on record, this Court found that the applicant had admitted the fact of his suspension on 8.6.2011, which was reiterated by the CIC vide his observation dated 25.10.2012 when a letter dated 22.10.2012 was written by the Sr. Divisional Commercial Manager, New Delhi on the subject of absence of the applicant to the said CIC. This minimum facts evidently proved that after suspension on 8.6.2011, the applicant had never reported to the office of the respondents even till 25.10.2012 and even thereafter on 27.10.2012 a letter was also written by Sr. Catering Inspector, NR Catering

Unit/DCMC, New Delhi Railway Station to Asstt. Commercial Manager, NR, Divisional Commercial Office, New Delhi on the subject of absence of the applicant stating that the applicant is being shown, as suspended in the attendance register w.e.f. 8.6.2011. The applicant has made representation only on 2.1.2013 requesting for issue duty orders and other representations thereafter. In the pleadings, there is no whisper about what the applicant was doing during the period from 9.6.2011 to 1.1.2013 and the present OA has been filed on 22.8.2016. Although applicant stated that he has filed representations right from 2013 till 2016 but that does not extend the period of limitation. The cause of action for the applicant arose in this case after expiry of 90 days from the date of his suspension, as the applicant has sought quashing of his suspension as also assignment of duties and pay w.e.f. 8.6.2011. The categorical stand of the respondents in this case is that after suspension, i.e., on 8.6.2011, the applicant never reported to the respondents as this fact is evidently clear from the letters of 2012, annexed by the applicant himself with the OA, and till date, as per the contention of the learned counsel for the respondents, they have not seen the applicant even after filing of this OA.

8. Having regard to the factual matrix of this case, this Court of the considered view that since the applicant himself absented since 9.6.2011 and his absence led to non-

proceeding in the matter further, the applicant cannot be entitled to any relief from this Tribunal. As such the present OA is dismissed. There shall be no order as to costs.

9. However, before parting this Order, this Court observes that once the applicant in this case was suspended on 8.6.2011, the respondents are duty bound to take a decision in disciplinary matter after some time expeditiously whatever may be the circumstances and if the applicant is not cooperating in the matter, the competent authority is empowered as per rules to take a decision and even to pass final orders in the matter of unauthorized absence of the applicant for years altogether.

10. The registry is directed to send a copy of this Order to the Chairman, Railway Board, New Delhi for his perusal and appropriate action for such delay in disciplinary proceedings.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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