

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/573/2011

Jabalpur, this Wednesday, the 11th day of September, 2019

**HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER**

Hemant Kumar Naidu, aged about 48 years, Ex-Khalasi, R/o East Ghamapur, Nirmala Church, H.No.331,Oppo. Police Station, Behind T.I. Bungalow, Jabalpur (M.P) 482002.

-Applicant

(By Advocate – Shri Shahidullah Baig)

V e r s u s

1. Union of India through Additional Divisional Railway Manager, West Central Railway, Jabalpur – Revisional Authority – 482001.
2. Senior Divisional Mechanical Engineer, West Central Railway, Jabalpur (Appellate Authority) – 482001.
3. Divisional Mechanical Engineer (OL), Office of New Katni Junction, Katni (M.P) – Disciplinary Authority – 483501.

-Respondents

(By Advocate – Shri Vijay Tripathi)

O R D E R (O R A L)

By Navin Tandon, AM.

The applicant is aggrieved by the orders of “removal from service” by the respondent department.

2. The applicant has made the following submissions in this

O.A:

2.1 He joined the services of the Railways on 25.12.1981.

2.2 He was issued with a major penalty chargesheet on 15.09.1999 for unauthorised absence from 17.01.1999 to 14.09.1999. The Inquiry Officer found him guilty of the charges and the Disciplinary Authority imposed the punishment of removal from service vide order dated 01.10.2001 (Annexure A-1).

2.3 The appeal was rejected on 18.01.2002 (Annexure A-2).

2.4 The applicant preferred a revision petition, which was also rejected vide order dated 31.05.2002 (Annexure A-3).

2.5 The applicant had earlier approached this Tribunal in OA No.1084/2004, which was dismissed on 13.01.2005 (Annexure A-5) with liberty to file a fresh OA. Subsequently, this Original Application has been filed on 30.05.2011, i.e. delay of more than five and half years. The applicant submits that the reason for delay is that the erstwhile counsel kept the applicant in dark. Therefore, he had also filed complaint with the State Bar Council of Madhya Pradesh on 10.05.2011 (Annexure A-6).

3. The applicant has sought for the following reliefs:

“8. RELIEF SOUGHT:

Applicant, therefore, humbly prays that this Hon'ble Court may kindly be pleased to:

- i. Call for the entire material record pertaining to the instant controversy from the respondents for its kind perusal.
- ii. Quash and set-aside impugned orders dt. 1.10.2001 (ANN-A-1) dtd. 18.1.2002 (ANN-A/2) & order dt.31.5.2002 (ANN-A/3) passed by respondents;
- iii. Grant any other relief/s, which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case to the applicant.

ii (sic). Award the cost of the instant lis to applicant.”

4. The respondents have filed their reply in which they have given several instances of unauthorised absence in the years 1993, 1994 and 1995 in which the applicant was awarded punishments on each occasion. It has been submitted that since the applicant did not show any improvement in his conduct and again remained unauthorised absent from 17.01.1999 to 14.09.1999, therefore, a major penalty chargesheet was issued on 15.09.1999. The disciplinary proceedings have been conducted as per rules and, therefore, this Original Application deserves to be dismissed.

5. Heard learned counsel for the parties and perused the pleadings available on record.

6. Learned counsel for the applicant has made an averment that the respondents have not considered his devoted duty of 19

years of service. He also submitted that the reason for absences was bonafide because of his mother's illness and therefore, he submits that the punishment is disproportionate. He places reliance on the judgment of Hon'ble High Court of Madhya Pradesh at Jabalpur in Writ Petition No.964/20014 dated 23.04.2014 (**Govind Singh Rajput vs. Government of India & Ors.**), wherein considering the 27 years of service rendered by the petitioner therein, the Hon'ble High Court has remanded the case back to the Disciplinary Authority for reconsidering the question of imposing any other alternate punishment including the punishment of compulsory retirement or reversion.

7. Learned counsel for the respondents brought out very clearly that the applicant has never been sincere on his duty and, therefore, he was awarded the punishment of removal from service after conducting the departmental proceedings, as per rules.

F I N D I N G S

8. We find that the applicant has not raised any question as far as the facts of the case are concerned.

9. Revisionary Authority has issued his orders dated 31.05.2002 (Annexure A-3), wherein the list of applicant's

unauthorised absence right from the year 1991 to 2001 has been indicated, which is as under:

Year	Number of days for which unauthorised absence/leave without pay.
1991	75 days
1992	46 "
1993	110 "
1994	173 "
1995	291 "
1996	45 "
1997	171 "
1998	307 "
1999	193 "
2000	226 "
2001	246 "

10. In the case of **Govind Singh** (supra), the petitioner therein had rendered 27 years of service and only one period of unauthorised absence was stated therein. However, the present case is easily distinguishable as the applicant regularly remained unauthorised absence from duty, which have been clearly indicated in the order of the Revisionary Authority.

11. In view of the above, we find no merit in this O.A. Accordingly, the O.A is dismissed. No costs.

(Ramesh Singh Thakur)
Judicial Member

am/-

(Navin Tandon)
Administrative Member