
(2003) 03 AHC CK 0094
In the Allahabad High Court
Case No : Writ Petition No. 15113 of 2000

Kaushal Kumar and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 26-03-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 03 AHC CK 0094

Hon'ble Judges : M.Katju, J and Prakash Krishna, J

Final Decision : Dismissed

Judgement

M. Katju, J.—This Writ petition has been filed against the impugned judgment of the Central Administrative Tribunal, Allahabad dated 3122000 Annexure 1 to the writ petition and the order of the removal of the petitioner from service dated 27101986. The petitioner Kaushal Kishore has died and his heirs are petitioner Nos. 2 to 5 to the writ petition.

2. The deceased Kaushal Kumar joined service in the Railway as Electrical Cleaner in 1954 and 1960 he was promoted as Electrical Fitter. It appears that he was absent without leave from 10111982 till the date of removal order dated 27101986. Thus he was absent without leave for almost four years.

3. An enquiry was held against him on the charge of unauthorised absence and disobedience of orders, but he did not participate in the enquiry, despite adequate opportunity. In fact, it appears that he appeared before the appellate authority on 1641992 but on this date his defense assistant did not come and on his request another date was fixed but he again did not come and it was again adjourned to 2561992 but still he did not appear. Hence the appeal was decided on the basis of the record.

4. We have perused the judgment of the Tribunal Annexure 1 to the petition and find no infirmity in the same. In paras 4 and 5 of the said order, it is mentioned that the petitioner was given opportunity of hearing several times and hence he

can have no complaint. It has been held in Gujarat Electricity Board v. Atmaram, AIR 1989 SC 1433, that there is a presumption of service of a registered letter if the same is returned with the postman's endorsement that the addressee refused to accept the same. In the present case, the Tribunal has found vide paras 4 and 5 of the order that there is an endorsement of the postman that the notices sent to the petitioner for holding the enquiry were returned back with the note of the Postman that the address refused to receive those letters.

5. We are also of the opinion that the punishment is not disproportionate to the offence since the petitioner was absent for about four years without leave. The writ petition is dismissed.