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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9875/2023**

RAKESH KUMAR MEENAPetitioner
Through: **Mr. R. K. Shukla, Adv.**

versus

UNION OF INDIA AND ORSRespondents
Through: **Mr. Raghwendra Tiwari, SPC.**

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGEMENT (ORAL)

% **28.01.2025**

C. HARI SHANKAR, J.

1. The petitioner, who was working as Assistant Loco Pilot in the Eastern Northern Railway, was issued a charge sheet on 6 October 2010, proposing to hold an inquiry against him under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968.

2. The charge sheet alleged that the petitioner had unauthorizedly remained absent from service for a period of 50 days.

3. The petitioner responded to the charge sheet on 13 October 2010. His submission was that he had remained absent owing to the illness of his wife and children.



4. Admittedly, without holding any enquiry against the petitioner, the respondent proceeded to dismiss the petitioner from service by order dated 11 November 2010. An appeal preferred thereagainst was also dismissed by the Appellate Authority on 13 January 2011 and a revision preferred against the said order was dismissed on 8 June 2011.

5. All these orders were challenged before the Central Administrative Tribunal¹ by way of OA 3149/2015.

6. Among the submissions canvassed by the petitioner before the Tribunal was the submission that the orders passed against him were in violation of the Rules and Regulations as well as the principles of natural justice as no enquiry had been held before passing the order.

7. The Tribunal has rejected the submission, reasoning thus:

“7. The necessity to conduct the inquiry would arise only when the charges are denied by the delinquent official. Once the charges are admitted, necessity to conduct the inquiry does not arise. It is not uncommon that the employees remain absent on account of illness or serious ailment of their family members. However, they do so while applying for leave. Remaining absent without applying for leave, would be amount to misconduct on the part of the employee. Staff in the operational wing in the Railways are required to be very prompt, because running of the trains depends upon their availability. Unauthorized absence for 50 days, would practically cause shortage of staff. Apart from that it, constitutes a serious act of misconduct on the part of the employee.

8. We are unable to sustain the order of the Tribunal. The petitioner was visited with the punishment of dismissal from service.



Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 specifically requires an inquiry to be held in such case, in respect of allegations which are not admitted by the Railway servant.

9. It cannot be said that the petitioner had admitted the allegations against him. On the other hand, the petitioner had sought to justify his absence from duty. Had an inquiry been held, the Inquiry Officer would have been able to appreciate the circumstances in which the petitioner claimed to have found himself and which, according to the petitioner, impeded his attending to his work.

10. While we do not express any opinion on the merits of the case, we do feel that the petitioner was entitled to an inquiry before any punishment order is passed against him.

11. We cannot, therefore, sustain the impugned judgment of the Tribunal which is quashed and set aside.

12. All proceedings, following the issuance of the charge-sheet dated 6 October 2010 would also, therefore, stand quashed and set aside.

13. We remand the matter to the respondents to appoint a formal Inquiry Officer and conduct a proper disciplinary inquiry against the petitioner in terms of Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968. We also direct that the inquiry should be concluded and orders be passed by the Disciplinary Authority within a



period of six months from today.

14. All legal remedies available to the petitioner in law would remain reserved.

15. In the meanwhile, the petitioner would be reinstated but would continue to remain under suspension pending conclusion of the disciplinary proceedings as held by the Supreme Court in *ECIL v B. Karunakar*².

16. The petition stands allowed in the aforesaid terms with no orders as to costs.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

JANUARY 28, 2025

SSC

[Click here to check corrigendum, if any](#)