

CENTRAL ADMINISTRATIVE TRIBUNAL ~  
PRINCIPAL BENCH

OA 2906/2002

New Delhi, this the 22nd day of January, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)  
Hon'ble Sh. Govindan S.Tampi, Member (A)

Sh. A.K.Tiwari  
S/o Sh. S.C.Tiwari  
Senior Booking Clerk  
Central Telephone Enquiry  
Office of Divl. Railway Manager  
Northern Railway, State Entry Road  
New Delhi.

...Applicant

(By Advocate Sh. B.S.Mainee)

V E R S U S

Union of India through

1. The General Manager  
Northern Railway  
Baroda House, New Delhi.
2. The Divisional Railway Manager  
Northern Railway  
State Entry Road  
New Delhi.
3. The Senior Divl. Commercial Manager  
office of Divl. Rly. Manager  
Northern Railway  
State Entry Road  
New Delhi.

...Respondents

(None present even on the second call)

O R D E R (ORAL)

By Hon'ble Smt. Lakshmi Swaminathan, VC (J)

In this application, the applicant has impugned the action and penalty orders issued by the respondents dated 16-8-2000 passed by the disciplinary authority and order dated 11-4-2001 passed by the appellate authority.

2. The above orders have been passed by the disciplinary authority and the appellate authority after holding the disciplinary proceedings against the applicant on five charges. Thereafter the revisional authority vide its order dated 10-4-2002 on appeal filed by the applicant has reduced the earlier

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punishment of dismissal from service and confirmed the punishment given by the appellate authority i.e. punishment of reduction to the grade Rs. 3200-4900 at Rs. 3200/- for a period of three years with cumulative effect.

3. The main contention of Sh. B.S. Mainee, learned counsel for the applicant is that neither the disciplinary authority's order dated 16-8-2000 nor the appellate authority's order dated 11-4-2002 is a speaking order, which is the requirement under the provisions of the Rules and the principles of natural justice. He has relied on the provisions of Rule 22 of the Railway Servants (Discipline and Appeal) Rules, 1968 (hereinafter referred to as "1968 Rules") and the Circulars issued by the Railway Board/OM dated 13-7-81 (Annexure A-9) which ~~is~~ also pari materia to the Govt. of India, DOPT O.M. dated 5-12-85. Under these Circulars issued by the Railway Board, it has been provided, inter alia, that in disciplinary proceedings against the employees conducted under the provisions of the CCS (CCA) Rules, 1965 and corresponding rules which are of quasi-judicial nature, <sup>is</sup> and as such there is a necessity for the competent authority, who has been specified as disciplinary or appellate authority under the relevant rules, to pass a speaking order which should have the attributes of a judicial order.

4. It is clear from a perusal of the impugned orders passed by the disciplinary authority as well as the appellate authority that the authorities have not cared to follow the relevant statutory Rules i.e. 1968 Rules or the aforesaid Railway Board's Instructions while dealing with the disciplinary case <sup>is</sup> against the applicant ~~and~~ passing the penalty orders.

The revisional authority's order dated 10-4-2002 while confirming the punishment given by the appellate authority has done so without also discussing the evidence, particularly having regard to the fact that the appellate authority's order itself is a bald and non-speaking order and merely upholds the punishment already given by the appellate authority of reduction in pay.

5. When notice was issued in this case, it was noted that a perusal of the impugned orders passed by the appellate authority shows that it is a non-speaking order as well as that of the disciplinary authority, whereby penalty orders have been issued against the applicant. It was noted that <sup>in</sup> ~~for~~ the above facts and circumstances, the respondents should file their reply as to why the aforesaid non-speaking orders should not be quashed and set aside. In spite of more than one opportunity <sup>having b/</sup> ~~been~~ granted to the respondents to file reply, none has appeared for the respondents nor any reply has been filed.

6. In the above facts and circumstances, we have heard Sh. B.S. Maine, ld. counsel for the applicant and perused the documents on record and have commented on the same as above.

7. For these reasons, the impugned disciplinary authority's order and appellate authority's order being non-speaking orders are quashed and set aside. Accordingly, the revisional authority's order dated 10-4-2002 is also quashed and set aside. However, in the facts and circumstances of the case, liberty is granted to the respondents to

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proceed in the matter in accordance with law, rules and instructions.

8. OA is disposed of as above. No order as to costs.

(Govindan S. Tampli)  
Member (A)

/vksh/

(Smt. Lakshmi Swaminathan)  
Vice-Chairman (J)

Lakshmi Swaminathan