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Central Administrative Tribunal  
Principal Bench, New Delhi

O.A.No.1397/2002

Hon'ble Shri V.K.Majotra, Member(A)  
Hon'ble Shri Shanker Raju, Member(J)

Wednesday, the 10th day of July, 2002

Shri Kulbir Singh  
s/o Shri Jagtar Singh  
Senior Sectional Engineer (Land)  
D.R.M.Office  
New Delhi. .. Applicant

(By Advocate: Shri B.S.Mainee)

Vs.

Union of India through

1. The General Manager  
Northern Railway.  
Baroda House  
New Delhi.
2. The Additional Divisional Railway Manager(Tech.)  
Northern Railway  
State Entry Road  
New Delhi.
3. The Divisional Superintending Engineer (Coord.)  
Northern Railway  
State Entry Road  
New Delhi. .. Respondents

O R D E R (Oral)

By Shanker Raju, M(J):

Heard the learned counsel.

2. Applicant impugns respondents' order dated 20.9.2001 wherein after completion of disciplinary proceedings a major penalty of reduction of pay from the stage of Rs.8800 to 7900, in the grade of Rs.7450-11500, for a period of one year was inflicted upon the applicant, which was reduced by the appellate authority to that of reduction to lower stage in the same time scale by four stages with cumulative effect for six months by an order passed on 31.1.2002.

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3. Learned counsel has challenged the proceedings on various grounds. He has drawn our attention to DoPT's OM dated 5.12.1985 which is reproduced as under:

"The undersigned is directed to state that as is well known and settled by courts disciplinary proceedings against employees conducted under the provisions of CCS (CCA) Rules, 1965, are under other corresponding rules, are quasi-judicial in nature and as such, it is necessary that orders in such proceedings are issued only by the competent authorities who have been specified as disciplinary/appellate/reviewing authorities under the relevant rules and the orders issued by the such authorities should have the attributes of a judicial order. The Supreme Court, in the case of Mahavir Prasad Vs. State of O.P. (AIR 1970 SC 1302) observed that recording of reasons in support of a decision by a quasi-judicial authority is obligatory as it ensures that the decision is reached according to law and is not a result of caprice, whim or fancy, or reached on ground of policy or expediency. The necessity to record of reasons is greater if the order is subject to appeal.

2. However, instances have come to the notice of this Department where the final orders passed by the competent disciplinary, appellate authorities do not contain the reasons on the basis whereof the decisions communicated by that order were reached. Since such orders may not conform to legal requirements, they may be liable to be held invalid, if challenged in a court of law. It is, therefore, impressed upon all concerned that the authorities exercising disciplinary powers should issue self-contained speaking and reasoned orders conforming to the aforesaid legal requirements.
3. Instances have also come to notice where, though the decisions in disciplinary/appellate cases are taken by the competent disciplinary/appellate authorities in the files, the final orders were

not issued by that authority but only by a lower authority. As mentioned above, the disciplinary/appellate/reviewing authorities exercise quasi-judicial powers and as such, they cannot delegate their powers to their subordinates. It is, therefore, essential that the decision taken by such authorities are communicated by the competent authority under their own signatures, and the order so issued should comply with the legal requirements as indicated in the proceeding paragraphs. It is only in those cases where the President is the prescribed disciplinary/appellate/reviewing authority and where the Minister concerned has considered the case and given his orders that an order may be authenticated by an officer, who has been authorised to authenticate orders in the name of the President.

4. The contents of this O.M. may kindly be brought to the notice of all concerned for their information and guidance."

He has also drawn our attention to Railway Board's letter dated 28.1.1986 and contended that it is incumbent upon the disciplinary as well as appellate authorities, being quasi judicial authorities, to pass a reasoned order, dealing with all the contentions of the applicant mentioned in his representation and appeal. In this background, it is stated that although a detailed representation as well as appeal has been filed by the applicant to these authorities, but they have not applied their mind and passed mechanical and non-speaking orders. Learned counsel for applicant also relied upon a decision of a Co-ordinate Bench of this Tribunal in OA No.2610/93 in Shri Bakhtiar Hussain Vs. Union of India & Others, decided on 12.11.1996 where placing reliance on a decision of Apex Court in Ram Chander Vs. Union of India & Others, AIR 1986 SC 1173 the impugned orders

therein have been set-aside being non-speaking and in contravention of the directions of the Railway Board's circulars *ibid.*

4. We have carefully perused the orders passed by the disciplinary as well as the appellate authority. In the light of the directions of the Railway Board to these authorities to pass a speaking order, on perusal of the impugned orders, we find that these orders are mechanical and are not in conformity with their own circulars, referred to above, as they have passed the impugned orders without dealing with all the contentions of the applicant taken in his representation and appeal and as such they are liable to be set-aside.

5. In view of the above discussion, we allow this OA at the admission stage, even without issuing notice to the respondents, by setting aside the impugned order of penalty as well as appellate authority's order. It is however, open to the respondents, if so advised, to pass afresh orders in accordance with the circulars referred above. The OA is accordingly disposed of. No costs.

S. Raju

(Shanker Raju)  
Member(J)

V.K. Majotra

(V.K. Majotra)  
Member(A)

/rao/