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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 1154/2002

This the 13th day of November, 2002

HON'BLE SH. KULDIP SINGH, MEMBER (J)
HON'BLE SH. M.P. SINGH, MEMBER (A)

Sh. S.N. Narula
Retired Sr. Commercial Manager
Northern Railway
r/o C-161, Surajmal Vihar
Delhi-110092.

(By Advocate: Sh. B.S. Mainee)

Versus

Union of India through

1. The Secretary
Railway Board
Ministry of Railways
Rail Bhawan,
New Delhi.
2. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
3. The Chief Commercial Manager,
Northern Railway,
Baroda House,
New Delhi.

(By Advocate: Sh. V.S.R. Krishna)

ORDER (ORAL)

By Sh. Kuldip Singh, Member (J)

Applicant in this case impugns an order dated 14.3.2002 vide which he has been awarded punishment of reduction in pension and his pension has been kept at the minimum of Rs.1275/- on permanent basis and also to forfeit the entire gratuity of the applicant.

2. By assailing this order, though the applicant had taken various grounds but one of the ground taken by the applicant is that this order is itself a non-speaking order and no reasons have been assigned as to how the President had reached to this conclusion holding the applicant guilty nor any reason
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has been given for awarding the punishment as mentioned in the impugned order itself. Learned counsel appearing for the applicant submitted that though this order is of 4 pages but one para running into two pages is nothing but narration of articles of charge. In the second para what charges are proved and what charges are not proved and then GM has given a disagreement note and then the President has given a second disagreement note. Thereafter the advise of UPSC was also sought and on the basis of that advice the impugned order of punishment had been passed.

3. Thus, counsel for applicant submitted that the order has been issued without application of mind. It does not give a reason as to why the disciplinary authority is inclined to accept the UPSC advice. Though in the UPSC advice similar punishment has been advised but the fact remains that the disciplinary authority of its own has not given any reason nor discussed the representation of the applicant even against the UPSC advice. Thus, the counsel for applicant submitted that it is a non-speaking order and cannot be sustained.


4. Refuting these allegations, Sh. Krishna appearing for the respondents submitted that the disciplinary authority had passed the order after taking into consideration all the material on record and consulting the UPSC. The enquiry officer adopted the procedure of enquiry and charge officers representation on the IO's report and the disagreement memorandum issued by the GM and the President himself. He has also submitted that the representation of the applicant has also been taken and sent to the UPSC for their advice. After


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the UPSC advice was received recommending the punishment, the applicant was punished and the advice of the UPSC was also enclosed with the order passed by the President.

5. We have given our thoughtful consideration to the matter. What should be the meaning of a non-speaking order. The law requires that when such like disciplinary authority passes an order punishing a delinquent employee it is supposed to mention in its order about the process of reaching at the conclusion so arrived by the disciplinary authority, the order itself should reveal the process adopted by the disciplinary authority. In the order, the disciplinary authority should also give reasonings as to why the applicant had been held guilty and why the particular punishment is being imposed. The perusal of the entire order does not show at all if it is a speaking order at all. As it fails to mention about the pleas taken by the applicant and how the same have been dealt with by the disciplinary authority.

6. Hence, we are of the considered opinion that this order is a non-speaking one and as such we are of the view that the same cannot be sustained and is liable to be quashed. Accordingly, we quash the impugned order and remand the case back to the disciplinary authority to pass a detailed reasoned and speaking order within a period of 3 months from the date of receipt of a copy of this order in accordance with instructions and law on the subject.


(M.P. SINGH)
Member (A)


(KULDIP SINGH)
Member (J)

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