

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

(6)

O.A.No.868/2001

Hon'ble Shri Shanker Raju, Member (J)

New Delhi, this the 7th day of August, 2001

Shri Dushyant Kumar
Junior Engineer-I
under Sr. Divisional Electl. Engineer
(Coaching), Northern Railway
DRM Office
New Delhi. Applicant

(By Advocate: Shri B.S.Maine)

vs.

1. Union of India through
The General Manager
Northern Railway
Baroda House
New Delhi.
2. The Divisional Railway Manager
Northern Railway
New Delhi.
3. The Sr. Divisional Electrical
Engineer(Coaching)
DRM Office, New Delhi. Respondents

(By Advocate: Shri R.P.Agarwal)

O R D E R(Oral)

By Shanker Raju, Member (J):

Present application has been admitted on
6.7.2001 subject to the preliminary objection.

2. In this case the applicant has assailed an order passed on 21.3.2001 whereby he has been awarded a minor penalty of reduction of pay to the lowest stage of Rs.6200 to 5500 in the scale of Rs.5500-9000 for a period of one year without postponing the future increments. The applicant has assailed the order of the disciplinary authority mainly on the ground that the same is non-speaking and is contrary to the Railway Board's instructions issued on the subject and placing reliance on the Apex Court's decision in

Mahavir Prasad Vs. State of O.P. (AIR 1970 SC 1302)

wherein it has been 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.

3. Rebutting strongly the contentions of the applicant, the learned counsel for the respondents stated that the OA is not maintainable as against the order of penalty he has not exhausted the statutory remedy available to him under Rule 18 of the Railway Servants (Discipline and Appeal) Rules, 1968. As such the Tribunal has no jurisdiction to entertain such grievance as stipulated under Section 20 of the Administrative Tribunals Act, 1985.

4. We have carefully considered the rival contentions of the parties and perused the pleadings on record. Admittedly, the OA has been admitted subject to preliminary objection. I find that against the minor penalty there is a statutory remedy available to the applicant under Section 18 of the Railway Rules ibid which the applicant has not exhausted and has challenged the orders of the disciplinary proceedings. In my confirmed view, this is not tenable in view of the provisions of the Section 20 of the Administrative Tribunals Act, 1985, wherein it is provided that the applicant has to exhaust all the statutory remedies available before

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resorting to this Court for redressal of the grievance. In view of this, I find that the present OA is premature.

5. However, I deem it proper, in the interest of justice, to direct the applicant to prefer an appeal under Rule 18 of the Railway Rules ibid against the impugned order of minor penalty within a period of one week from the date of receipt of a copy of this order. The respondents are also directed to consider the appeal of the applicant on merits without insisting on the limitation and to dispose of the same by passing a detailed and speaking order within a period of six weeks from the date of receipt of the appeal to be filed by the applicant. However, the effect of the punishment inflicted upon the applicant on 21.3.2000 shall remain stayed till the appellate authority disposes of the appeal. However, it goes without saying that the applicant if still aggrieved shall have liberty to assail the order passed by the appellate authority in accordance with law. The OA is accordingly disposed of at the admission stage itself. No costs.

S. Raju

(SHANKER RAJU)
MEMBER(J)

/RAO/