

(21)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1006/2001

Thursday, this the 12th day of September, 2002

Hon'ble Shri Govindan S. Tampi, Member (A)

Shri Ramesh Chand Sharma
s/o Jagat Narain Sharma
Goods Supervisor
Northern Railway, Shakurbasti
Delhi.

...Applicant

(By Advocate: Ms. Meenu Mainee for Shri B.S.Mainee)

Versus

Union of India through

1. The General Manager
Northern Railway
Baroda House
New Delhi
2. The Chief Commercial Manager (G)
Northern Railway
Baroda House, New Delhi
3. The Chief Traffic Manager
Northern Railway
DRM Office
New Delhi
4. The Sr. Divisional Commercial Manager
Northern Railway
DRM Office
New Delhi

...Respondents

(By Advocate: Shri Rajinder Khatter)

O R D E R (ORAL)


By Sh. Govindan S.Tampi,

Imposition of a minor penalty is assailed in this
OA.

2. Heard Ms. Meenu Mainee, learned counsel for the
applicant and Shri Rajinder Khatter, learned counsel for
the respondents.

3. Shri Ramesh Chand Sharma, presently working as
Goods Supervisor at Railway Station, Shakurbasti, Delhi
Division, was proceeded against for minor penalty on

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31.7.1997/11.9.1997 on the ground of his failure to hand over a parcel from DLKA out agency of Meerut city on Platforms 1 & 2 on 25.11.1996. The applicant's defence that on the relevant day, 98 packages of Meerut city shifted under acknowledgement from his successor was overruled by the disciplinary authority - Sr. Divisional Commercial Manager - by the cryptic order "Defence is not acceptable", who directed withholding of three increments without cumulative effect on 20.2.1998. The applicant's appeal of 22.4.1998, explaining the position, was rejected on 28.9.1998 by the Chief Traffic Manager, Northern Railway by another non-speaking order. Review application filed by him on 12.12.1998 met the same fate by its rejection on 13.10.1999 from the Chief Commercial Manager. The applicant states that he has been penalised on a frivolous and baseless charge and that too without considering his pleas. All the three authorities - disciplinary, appellate and review - had passed orders almost mechanically and without considering the pleas made by the applicant in all the three stages. Ms. Meenu Mainee, learned counsel appearing for the applicant reiterated the pleadings and pointed out that the applicant has been denied justice.

4. In the reply filed on behalf of the respondents and reiterated by Shri Rajinder Khatter, learned counsel, it is urged that the respondents had acted correctly as the applicant had failed to hand over a parcel leading to the Railways being forced to make good the loss. Penal proceedings were initiated and after examining the pleas by the applicant, the authorities had passed the impugned orders. According to the learned

counsel, the orders need not be long but if they are reasoned and speaking nothing else was required. OA, in the circumstances, deserves to be rejected.

5. On consideration of the facts of the case and examination of the orders, I am convinced that the applicant has a strong case. Disciplinary authority's order dated 20.2.1998 is a cyclostyled Memorandum with the only cryptic finding "Defence is not acceptable". Findings of the appellate order dated 28.9.1998 read as follows:-

"The plea of Shri Sharma is frivolous and he has been careless in working which resulted in the loss of consignment. He is only taking the plea that Shri K.P. Singh is responsible but there is no proof documentary that charge was given to him.

Appeal is regretted."

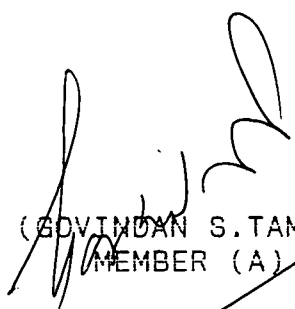
Revisionary authority has referred in passing to the plea raised by the applicant, but has held that "as the issue raised by you has already been gone into in detail by the appellate authority and myself. I see no reason to modify the punishment already imposed". None of the above orders can be described as speaking or reasoned orders. They are only apology for orders and do not at all examine the issues concerned. These bald and formal communications do not at all fulfil the requirements of law and cannot at all be sustained. They are liable to be quashed and set aside, as being violative of all administrative principles and requirements.

6. In the above view of the matter, OA succeeds and is accordingly allowed. All the impugned orders - disciplinary authority's order dt. 20-2-1998, appellate

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authority's order dt. 28-9-98 and revisionary order dt. 13-10-99 are quashed and set aside. This order does not prohibit the respondents from taking action against the applicant, if so advised and strictly in accordance with law and accepted procedure. No costs.


(GOVINDAN S. TAMPI)
MEMBER (A)