

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1209/99

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

New Delhi, this the 19th day of March, 2001

Mallu Ram
s/o Shri Sheo Ram
working as Helper Cleaner
under T. No.610
Northern Railway Station
Hazarat Nizamuddin
New Delhi.

... Applicant

(By Shri Rajeev Sharma, Advocate)

Vs.

1. Union of India through
The General Manager
Northern railway
Baroda House
New Delhi.
 2. The Divisional Mechanical Engineer
DRM's Office, Northern Railway
Delhi Division,
Near New Delhi Railway Station
New Delhi.
 3. The Sr. Section Engineer (C&W)
Coaching Depot, Northern Railway Station
Hazarat Nizamuddin
New Delhi.
- ... Respondents

(By Advocate: Shri P.M.Ahlawat)

O R D E R (Oral)

Hon'ble Shri Shanker Raju, Member (J):

The applicant, a Cleaner working with the respondents, has assailed an order dated 15.4.1998 whereby a minor penalty of withholding of temporary increment for a period of one year has been imposed upon the applicant after issuance of Standard Form-11 under Railway Discipline and Appeal Rules. The applicant carried this minor punishment in an appeal made to the Divisional Mechanical Engineer, DRM's Office, Northern Railway, Delhi Division, New Delhi on 26.8.1998 and the same remained undecided for more than six months, hence the present OA.

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2. The applicant challenged this minor penalty on the ground that as provided under Rule 11(2) as well as the Railway Board's letter No.E(D&A)86/RG-6-12 of 17.2.1986, it has been directed by the Railway Board that in case of imposition of a minor penalty where no enquiry was held, the Disciplinary Authority while passing the order should communicate to the employee concerned the brief reasons for final decision regarding the guilt of the employee. In this back ground, it is contended that the order is non-speaking and no reasons have been communicated to the applicant for imposition of a minor penalty upon him. It is further contended by the applicant that as he had been awarded only a minor penalty the period of suspension should have been treated as period spent on duty for all purposes.

3. The respondents' counsel Shri P.M. Ahlawat refuted the contentions of the applicant and stated that although the reasons are not given in the order passed by the disciplinary authority but the same have been recorded in the file pertaining to the order passed on 15.4.1998. It has been further stated that the appeal preferred by the applicant was not directed to the proper authority whereas the appellate authority against an order passed by Senior Section Engineer (C&W) lies to the Assistant Mechanical Engineer and as in this case the appeal was not preferred to the above stated authority the same could not have been disposed of. As regards the suspension it is admitted that the decision regarding the treatment of the period of suspension is still under

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consideration and shall be finalised in a short time, according to the extant instructions. It is further contended that the applicant's claim is not in accordance with the record as on 15.1.1998 as per the Entry No.59/RP/HNZM/98 contained in the Diary for Distribution of work, the applicant was deputed for cleaning of 4006-Indore Express by Shri Raj Pal, Junior Engineer on 15.1.1998. In this back ground it is stated that the applicant derelicted his duty and punishment imposed was as per the extant rules and instructions on the subject.

4. We have carefully considered the rival contentions of the parties and also perused the relevant records. According to the respondents the applicant though preferred a statutory appeal against the minor punishment but to a wrong authority. In fact the appeal should have been made to Assistant Mechanical Engineer (C&W), Northern Railway, Hazarat Nizamuddin.

5. In view of the above fact that the appeal preferred by the applicant against the minor penalty is yet to be disposed of on the ground that the same is not directed to the appropriate authority, we dispose of this OA by directing the applicant to file an appeal to the appropriate authority, i.e., the Assistant Mechanical Engineer (C&W) against the minor penalty order dated 15.4.1998 within two weeks from the date of receipt of a copy of this order. Thereafter, the respondents are directed to dispose of the said appeal within two weeks thereafter by passing a reasoned and speaking order. The respondents are

further directed to decide the period of suspension of the applicant from 15.1.1998 to 15.2.1998 in accordance with rules. The OA is accordingly disposed of. No costs.

S. Raju

(SHANKER RAJU)
MEMBER(J)

/RAO/

V.K. Majotra

(V.K. MAJOTRA)
MEMBER(A)