

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A No. 1865/1999
T.A No.

(9)

Date of Decision 28-3-2001

Sh. Parma Nand ..Petitioner
Ms Meenu Maine ..Advocate for the Petitioner(s)

Versus

UOI through GM(NR) & ORs ..Respondent

Sh. R.P. Aggarwal ..Advocate for the Respondents

Coram:-

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri Govindan S. Tampi, Member (A)

1. To be referred to the Reporter or not ? Yes
2. Whether it needs to be circulated to other Benches of the Tribunal ? No

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

Central Administrative Tribunal
Principal Bench

(10)

O.A. 1865/1999

New Delhi this the 28th day of March, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).
Hon'ble Shri Govindan S. Tampli, Member(A).

Shri Parma Nand,
S/o Shri Mawasi Ram,
Senior Ticket Collector,
Northern Railway,
Delhi.

... Applicant.

(By Advocate Ms. Meenu Mainee)

Versus

Union of India through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.
3. The Chief Ticket Inspector,
Northern Railway,
Railway Station,
Delhi.

... Respondents

(By Advocate Shri R.P. Aggarwal)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).

In this application, the applicant has impugned the validity of the orders passed by the respondents dated 25.6.1999 and 5.8.1999. These orders have been passed by the disciplinary authority and the appellate authority, respectively after holding ~~the~~ departmental proceedings against him under the provisions of the Railway Servants (Discipline and Appeal) Rules, 1968 (hereinafter referred to as 'the 1968 Rules'). The disciplinary authority has imposed on the applicant a punishment of reduction of pay

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"from the stage of Rs.4500.00 in grade of Rs.4000-6000 to
Rs.3050/- in grade of Rs.3050-4590 for a period of three
years with cumulative effect".

2. We have heard Mrs. Meenu Mainee, learned counsel for the applicant and Shri R.P. Aggarwal, learned counsel for the respondents and perused the documents on record.

3. One of the main grounds taken by the applicant in assailing the validity of the orders passed by the respondents, is that prior to the imposition of the penalty by the disciplinary authority by his order dated 25.6.1999, he had not given any reasons for his disagreement with the findings of the Inquiry Officer or given him an opportunity to represent against the same. It is not disputed that the Inquiry Officer had exonerated the applicant of the charges levelled against him in his report. We note from the reply filed by the respondents that they have stated, *inter alia*, that the applicant was given the reasons for disagreement with the Inquiry Officer, as contained in the notice imposing penalty on the applicant dated 25.6.1999, that is the disciplinary authority's order. It is also relevant to note that in paragraph 7 of the appeal filed by the applicant he has elaborately discussed the provisions of law as enunciated by the Hon'ble Supreme Court on this point. He has submitted clearly that the disciplinary authority has not given any tenable reasons for disagreement with the Inquiry Officer and has also not communicated the same to him for his comments, prior to the imposition of the punishment by the disciplinary authority.

In the facts and circumstances of the case, we agree with the contentions of the learned counsel for the applicant that the respondents have violated the provisions of law as enunciated by the Hon'ble Supreme Court which have been followed from 1969 onwards (See. **Nagina Mishra Vs. Union of India (1969(3) SLR 657)**, **Punjab National Bank and Ors. Vs. Kunj Behari Mishra (ATJ 1998(3) SC 537)**). In Kunj Behari's case (supra), the Supreme Court has held as follows:

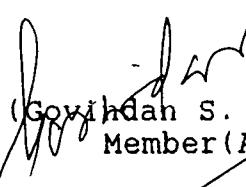
"Whenever the disciplinary authority disagrees with the inquiry authority on any article of charge then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings".

4.. In the facts and circumstances of the case, therefore, the disciplinary authority's order dated 25.6.1999, which is clearly in violation of the provisions of law as laid down by the Hon'ble Supreme Court is liable to be quashed. It is also relevant to note that detailed grounds have been taken by the applicant in his appeal dated 27.7.1999. This had been submitted by him in pursuance of Tribunal's order dated 21.7.1999 in the earlier application filed by him (OA 1555/99), but the appellate authority has not cared to consider the grounds or comply with the provisions of Rule 22 of the 1968 Rules while disposing of the appeal. He has passed a cryptic and non-speaking order which cannot also be sustained in law, as he has not cared to follow the provisions of Rule 22(2) of the 1968 Rules but has merely mentioned the provisions of those Rules, which is not sufficient. Therefore, this order is also liable to be quashed and set aside.

Yours

(13)

5. Considering the fact that this is the second round of litigation by the applicant and the above discussion, which shows that the respondents have passed the impugned punishment orders without application of mind or complying with the relevant provisions of law, the O.A. is allowed and the punishment orders dated 25.6.1999 and 5.8.1999 are quashed and set aside. The respondents shall take necessary action to return the deducted amounts from the applicant's pay within two months from the date of receipt of a copy of this order. In the circumstances of the case, cost of Rs.500/- (Rupees five hundred only) is awarded in favour of the applicant and against the respondents.


(Gokhaldan S. Tampli)
Member (A)

'SRD'


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)