

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH



OA. No. 1297 Of 1995

New Delhi, this 10th day of August, 1998

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER(J)
HON'BLE SHRI K. MUTHUKUMAR, MEMBER(A)

Arvind Kumar
C/o Shri Rameshwar
R/o P-1-1085 Sultanpuri
DELHI. ... Applicant

By Advocate : Shri G.D. Bhandari

versus

1. Union of India, through
The General Manager,
Northern Railway, Baroda House
NEW DELHI.
2. The Divisional Railway Manager
Northern Railway
MORADABAD. ... Respondents

By Advocate: None.

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, M(J)

This is an expedited case. None is present for the respondents today even on the second call. We note that on 5.11.97 Shri Rajeev Sharma, learned counsel for the respondents had appeared and sought an adjournment. Thereafter none has appeared for the respondents. In the circumstances, we have heard Shri G.D. Bhandari, learned counsel for the applicant and perused the pleadings on record.

2. The applicant is aggrieved by the removal order, passed by the respondents dated 2.2.94 (Annexure A-1) and rejection of his appeal by the appellate authority by the order dated 4.4.94 (Annexure A-3). Shri G.D. Bhandari, learned counsel has taken a number of grounds in the OA challenging

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the validity of the impugned orders, including the objection that these authorities who are exercising judicial and quasi judicial powers have, in violation of the Railway Servants(Discipline and Appeal) Rules, 1968 read with Railway Board's instructions, not passed speaking orders giving reasons for their decisions. He has submitted that a mere perusal of the impugned orders passed by the disciplinary and appellate authorities ^{13.} ~~would~~ show that there is no application of mind. He has submitted that the disciplinary authority has, in addition, used a cyclostyled form where it is merely written that the "charges proved in enquiry" and thereafter the removal order has been passed against the applicant with immediate effect. He has submitted that similarly the appellate authority has also not considered the various grounds the applicant had taken in his appeal in the impugned order dated 4.4.94. Learned counsel relies on the judgments of the Tribunal in Mool Chand Vs. UOI & Ors. (OA.1343/94) dated 28.10.96) and Mahesh Prasad & Anr. Vs. UOI & Ors. in (OA.360/93 dated 12.11.97) (copies placed on record).

3. In the facts and circumstances of the case, we are satisfied that the Tribunal's orders passed in the aforesaid two applications are fully applicable to the facts of this case. It is settled law that the disciplinary authority and the appellate authority who are exercising judicial powers are required to give speaking and reasoned orders in support of their decisions, which is lacking in the present case. This

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is also contrary to Rule 22(2)(c) of the Railway Servants (Discipline & Appeal) Rules, 1968 and to the Railway Board's own circular dated 3.3.78 which have also been referred to in the order of the Tribunal dated 12.11.97 in OA.360/93 in which one of us (Smt. Lakshmi Swaminathan, M(J)) was also present. We are in respectful agreement with the reasons given in the aforesaid judgments of the Tribunal.

4. Neither the disciplinary authority nor the appellate authority has passed speaking orders in this case after discussing the facts and evidence on record for arriving at their decisions. In the circumstances, without going into the merits of the case, the impugned removal order dated 2.2.94 and the appellate authority's order dated 4.4.94 cannot be sustained as they are contrary to the Rules and respondents' own circular dated 3.3.78.

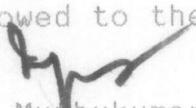
(i) The ~~two~~ impugned orders dated 2.2.94 and 4.4.94 are accordingly quashed and set aside.

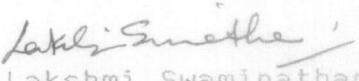
(ii) the applicant should be reinstated as Substitute Loco-Cleaner within six weeks from the date of receipt of a copy of this order.

(iii) It will be open to the respondents to proceed with the case afresh in accordance with the relevant rules and instructions on the subject.

(iv) No backwages for the intervening period is allowed to the applicant. No order as to costs.

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(K. Muthukumar)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)