

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA. No. 486 of 1995

New Delhi, this 10th day of August, 1998

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

Virender Pal
C/o Shri Gobind Ram
R/o WZ-48C Narayana Gaon
NEW DELHI-28. Applicant

By Advocate : Shri B.S. Mainee through
proxy counsel Shri B.L. Madhok.

versus

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

By Advocate: Shri K.K. Patel

O R D E R (ORAL)

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

This is an expedited case. We have heard Shri B.L. Madhok, proxy counsel for Shri B.S. Mainee, learned counsel, for the applicant and Shri K.K. Patel, learned counsel for respondents.

2. The applicant is aggrieved by the removal order passed by the respondents dated 27.5.94 (Annexure A-1) and rejection of his appeal by the appellate authority by the order dated 21.8.94 (Annexure A-1 to counter reply). Learned proxy counsel for the applicant has taken a number of grounds in the OA challenging the validity of the impugned orders, including the fact that these

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authorities who are exercising judicial/ quasi judicial powers have not passed speaking orders giving reasons for their decisions which is in violation of the Railway Servants (Discipline and Appeal) Rules, 1968 read with the Railway Board's Instructions.

He has submitted that a mere perusal of the impugned orders passed by the disciplinary authority and appellate authority would show that there is no application of mind. He has submitted that the disciplinary authority has, in addition, used the cyclostyled form where it is merely written that the charges stand proved, and thereafter the removal order has been passed against the applicant with immediate effect. He has also submitted that similarly the appellate authority has not considered the various grounds taken by the applicant in his appeal while issuing the impugned order dated 21.8.94.

Learned counsel relies on the judgments of the Tribunal in Mool Chand Vs UOI in OA.1343/94 dated 28.10.96 and Maresh Prasad & Anr in OA.360/93, dated 12.11.97 (copies placed on record).

3. From 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 under the relevant Railway (Discipline and Appeal) Rules, are required to

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give speaking orders with reasons in support of their decisions while passing their orders, which is lacking in the present case. This is not only contrary to Rule 22(2)(c) of the Railway Servants (Discipline & Appeal) Rules, 1968 but also contrary to the Railway Board's circular dated 3.3.98 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. Neither the disciplinary authority nor the appellate authority has passed a speaking order in this case or discussed the facts and evidence on record for arriving at their decisions. Today we have also given a similar order in OA.1297/95.

4. In the circumstances, without going into the merits of the case, we hold that the impugned removal order dated 27.5.94 and the appellate authority's order dated 21.8.94 cannot be sustained as they are contrary to the rules and respondents' own circular dated 3.3.98. In the circumstances,

(i) impugned orders dated 27.5.94 and 21.8.94 are quashed and set aside. We make it clear that we do not wish to express any opinion on the merits of the Enquiry Officer's findings on the chargesheet.

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

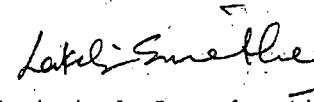
(iii) It will be open to the respondents to proceed with the case in accordance with the rules and instructions on the subject.

(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)