

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

DA-1154/94

New Delhi this the 15th day of October, 1997.

Hon'ble Smt. Lakshmi Swaminathan, Member(J)
Hon'ble Sh. S.P. Biswas, Member(A)

Sh. Anil Kumar Saxena,
S/o late Sh. Ram Mohan Lal Saxena,
C/o Sh. Sat Prakash Verma,
29A, Ashok Vihar-II,
Pocket-B, New Delhi-52. Applicant

(through Sh. G.D. Bhandari, advocate)

versus

1. Union of India through
General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divl. Railway Manager,
Northern Railway,
Moradabad, U.P. Respondents

(through Sh. K.K. Patel, advocate)

ORDER(ORAL)
Hon'ble Sh. S.P. Biswas, Member(A)

The applicant, an ex-Loco Cleaner under Loco Foreman Laksar/Northern Railway is aggrieved by A-1 and A-3 orders dated 2.12.93 and 9.3.94 respectively. By A-1 order, the applicant has been removed from service with immediate effect and by A-3 order, the appeal of the applicant has been rejected confirming the order of punishment given by the Disciplinary Authority.

2. The learned counsel for the applicant assailed the impugned order on the basis that the original casual labour card and the personal file containing the remarks of Sh. S.P. Jutla, IOW were not produced in course of the disciplinary proceedings and only photo copies of the

8

relevant pages were made available. It has further been averred that the authors of verification reports, namely, Sh. B.K. Das. and Sh. H.O. Agarwal, who have been main prosecution witnesses in this case, were not examined despite repeated requests by the applicant. The applicant would further contend that since original verification was allegedly forged, the reverified report/
documents which is the foundation of whole disciplinary proceedings were neither provided in the enquiry nor copies supplied. The learned counsel for the applicant has come out with a long chain of justifications questioning the validity of A-1 and A-3 orders. While we may not go into those in details, we find that there is a glaring irregularity in dealing with A-3 appellate orders passed by the respondents. A-3 order mentions:-

"Appeal considered. There are no grounds reducing/waiving punishment imposed. Hence appeal is rejected, punishment imposed allowed to stand."

3. It is a settled law in this country as elsewhere that every quasi judicial order must be supported by reasons. We are satisfied that in the disposal of the appeal, the Sr. Dvl. Mechanical Engineer (Power) has not applied his mind to the requirements of the rule 22(2) of Railway Servants (D&A), Rules, 1968. That rule stipulates the following:

"22(2) In the case of an appeal against an order imposing any of the penalties specified in Rule 6 or enhancing any penalty imposed under the said rule, the appellate authority shall consider-

9

- (a) whether the procedure laid down in these rules has been complied with, and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;
- (b) whether the findings of the disciplinary authority are warranted by the evidence on the record; and
- (c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe; and pass orders
 - (i) confirming, enhancing, reducing or setting aside the penalty; or
 - (ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such directions as it may deem fit in the circumstances of the case."

In the instant case, the impugned order (A-3) passed by the respondents has obviously been issued by the respondents totally in violation of the extant rules on the subject and it cannot be sustained in the eyes of rules/regulations prescribed by the respondents (Railways).

4. We find that our views get support from the decision of the Hon'ble Supreme Court in the case of R.P. Bhat Vs. U.O.I & Ors. (AIR 1996 SC 149). That was the case where the impugned order therein was passed by Director General and the said order was set aside by the Apex Court and the respondents were directed to dispose of the appeal afresh after applying their mind to the regulations of Rule 27(2) (Corresponding rule in that organisation). The same situation prevails here. The Rule which has been violated in the present case is 22(c) of Railways (D&A) rules as afore-quoted.

10

5. We are constrained ^{to} note that the cases of this nature, which the Tribunal have had to deal with in the recent past, are too many in number and that too happening in a particular division of the Northern Railway i.e. Moradabad. This is a fit case where the respondent No.1 i.e. General Manager Northern Railway needs to be alerted on this unhappy state of affairs occurring in a particular area of the Railways again and again. Since this brings out a series of administrative/legal problems touching upon the subject of appointment of substitutes and also non-compliance of the Railway Servants (Discipline & Appeal) Rules, 1968 by the executive authorities, the said respondent may consider it necessary to issue appropriate instructions for the guidance of field level administrative authorities in terms of the law laid down on the subject.

6. For the reasons afore-mentioned, we allow the application with the following directions:-

(A) Annexures A-1 and A-3 orders stand quashed.

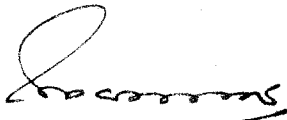
(B) The applicant shall be reinstated within a period of one month from the date of issue of a copy of this order.

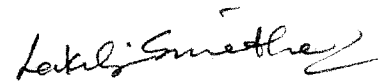
(C) The applicant shall not be entitled for back wages for the period he was out of job.

11

(D) The respondents will have the liberty
to proceed with the case in terms of
the law laid down on the subject.

There shall be no order as to costs.


(S.P. Biswas)
Member(A)


(Smt. Lakshmi Swaminathan)
Member(J)

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