

Central Administrative Tribunal
Principal Bench

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RA 223/1999
in
OA 1193/1993

New Delhi this the 24 th day of May, 2001

Hon'ble Shri S.R. Adige, Vice Chairman(A).
Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).

Shri Chander Bhal Petitioner.
(By Advocate Sh. B.S. Maine) Versus

Union of India & Ors. Respondents.
(By Advocate Sh. R.L. Dhawan)

O R D E R

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

This Review Application has been filed by the applicant praying for review of the Tribunal's order dated 20.9.1999 in OA 1193/93.

2. One of the main grounds taken by the review applicant is that the disciplinary authority and the appellate authority have passed non-speaking orders without complying with the provisions of law and rules. Shri B.S. Maine, learned counsel has very vehemently submitted that although this submission was made by him when the O.A. was being heard and had also been taken as one of the grounds in the O.A., that ground was not considered by the Tribunal as it perhaps escaped its notice. He has, therefore, submitted that the punishment orders passed by these authorities should be quashed and set aside on this ground alone. He has relied on a number of judgements of the Tribunal (copies annexed to RA), in which the Tribunal had quashed the punishment orders on this ground alone. He has, therefore, submitted that the Tribunal's order should be reviewed and the punishment

orders should be set aside as non-speaking orders have been passed by the authorities.

3. The respondents in their reply have controverted the above facts and have also taken the plea of bar of limitation. The applicant has refuted the preliminary objection. We find from the records that the Review Application has been filed on 25.10.1999 against the impugned order dated 20.9.1999. In the circumstances, the preliminary plea of limitation is rejected.

4. Shri R.L. Dhawan, learned counsel has also opposed the Review Application on merits, stating that it does not come within the provisions laid down under Order 47 Rule 1 CPC. He has also submitted that the disciplinary authority had agreed with the findings of the Inquiry Officer and in the circumstances, there was no need for the disciplinary authority to give a detailed order as the Inquiry Officer's report had also been submitted to the applicant. He has relied on the judgement of the Tribunal in D.N. Bhoslay Vs. Union of India & Ors. (SLJ 1992 Vol.2 (CAT) 22). He has, therefore, prayed that the Review Application should be dismissed.

5. During the course of arguments, Shri B.S. Maine, learned counsel had referred to the appeal dated 12.8.1992, filed by the applicant against the order passed by the disciplinary authority dated 2.7.1992 (Annexure A-6 to the O.A.). We note that in this appeal the applicant

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has termed it as a "Mercy Appeal" where he has not taken the ground that he has in any way been prejudiced by the disciplinary authority's order being a non-speaking order or that, therefore, he was unable to file a proper appeal. However, it is noticed from the appellate authority's order dated 13.11.1992 that the appeal of the applicant is referred to as the one dated 12.10.1992. It is also noticed that in Part 'B' of the Court File, Annexure A-6 annexed by the applicant as his appeal is dated 12.8.1993. If, as stated by the appellate authority in his order dated 13.11.1992, the applicant has filed appeal only on 12.10.1992 against the disciplinary authority's dated 2.7.1992, it appears to be belated but it is noted that this plea has not been taken by the appellate authority. These grounds were taken very vehemently by the learned counsel for the review applicant when he had pleaded that the punishment orders should be quashed and set aside. He had submitted that the applicant, being a lowly paid employee and an illiterate person, might not have taken this legal ground. However, we note that the applicant has taken factual and other grounds in his appeal praying for cancellation of the charge and the punishment order.

6. In the circumstances of the case, we agree with the contentions of the learned counsel for the review applicant that the appellate authority should have dealt with the various grounds the applicant has taken in his appeal and passed a reasoned and speaking order which he has failed to do. Therefore, having regard to the appeal filed by the applicant and the facts and circumstances of the case, we do not find it necessary to quash the

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disciplinary authority's order as no prejudice has been caused to the applicant in this case in filing his appeal to the appellate authority.

7. In the facts and circumstances of the case, the Review Application is partly allowed to the extent that the impugned order passed by the appellate authority dated 13.11.1992 is quashed and set aside as it is a non-speaking order. That authority is directed to pass a reasoned and speaking order, taking into account the relevant provisions of law, including Rule 22 of the Railway Servants (Discipline and Appeal) Rules, 1968 and Instructions, and after giving a reasonable opportunity to the applicant to be heard personally. That authority shall pass necessary order within three months from the date of receiving ^{of 18/} a copy of this order, with intimation to the applicant. ~~No order as to costs~~

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

S.R. Adige

(S.R. Adige)
Vice Chairman (A)

"SRD"