

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

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O.A. No. 1309/1989
Tax No.

199

DATE OF DECISION 31.7.1991.

<u>Shri Bodh Raj Sharma</u>	<u>X</u> Petitioner Applicant
<u>Shri B.B. Raval</u>	Advocate for the <u>X</u> Petitioner(s)
Versus	
<u>Union of India & Others</u>	Respondents
<u>Shri B.K. Aggarwal</u>	Advocate for the Respondent(s)

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The Hon'ble Mr. Justice U.C. Srivastava, Vice Chairman(J)

The Hon'ble Mr. I.P. Gupta, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

Judgement(Delivered by Hon'ble Mr. Justice
U.C. Srivastava, Vice Chairman)

The applicant who was a Ticket Collector was charged with sheeted for illegal extraction of Rs.10/- from one Shri Nand Kishore, a passenger, who was carrying permissible luggage on Ticket Nos.42201/02 from Delhi to Etawah without issuing money receipt for which he was served with a chargesheet on 30th May, 1985 and after an enquiry, the Disciplinary Authority passed an order of removal from service on 10.2.1987.

2. The applicant submitted an appeal to the Senior Divisional Commercial Superintendent, Northern Railway, New Delhi, which was rejected on 27th May, 1987 whereafter the applicant approached this Tribunal. The matter came before the

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Principal Bench of the Tribunal which allowed the application on the ground that the impugned order was a non-speaking order.

3. The Bench observed as follows :

"This is a wholly non-speaking order. As is evident from this Order, neither it refers to the charges levelled against the applicant nor the plea raised in defence nor evidence in support of the defence. The order does not disclose whether the appellate authority has applied its mind to the several contentions raised by the applicant as regards the irregularity in the procedure and the lack of evidence to establish the charges. It has been repeatedly laid down by the Supreme Court/High Courts and by this Tribunal also that the appellate authority should dispose of the appeal on merits by a speaking order. The disposal of this appeal does not disclose that any of these decisions have been kept in view. We have, therefore, no option but to quash the appellate order and direct the appellate authority to hear and dispose of the appeal expeditiously and in any case not later than three months from the date of receipt of this Order."

4. The applicant has been transferred to Ambala. The applicant preferred an appeal on 27th May, 1988 to the appellate authority, Ambala which was to be disposed of by the concerned authority which has passed a non-speaking order.

5. In the reply filed by the respondents, the contentions of the applicant are denied. The contention of the applicant is that the direction given by this Bench of the Central Administrative Tribunal has been disregarded this time again and one of the contentions is that the witness, Shri Nand Kishore was not produced before the Inquiry Officer/in order to confront the statement recorded in the absence of the charged officer. In his appeal dated 27th May, 1988, the applicant had given account of his innocence and lack of/evidences recorded and produced before the Inquiry Officer. His appeal was rejected without taking into consideration the points raised in his appeal dated 27th May, 1988. The hearing of the applicant was not given despite the earlier

direction of the Tribunal. The applicant has also raised the issue of jurisdiction saying that after the creation of the Ambala Division and his transfer to Ambala Division, his appellate authority was Sr. D.C.S., Ambala to whom he preferred the appeal on 27.8.1988. The applicant has said that the witness, Ali, who was examined against him also stated ^{to} casting aspersion as the genuinity of exhibits.

6. Whatever it may be, the direction of the Tribunal should have been complied with faithfully. Therefore, we have no option but to allow this application and quash appellate order dated 5.7.88. The appellate authority is directed to dispose of the appeal of the applicant within a period of two months taking into consideration the observations earlier made.

However, there will be no order as to costs.

/PKK/.

I.P. Gupta
(I.P. GUPTA)
MEMBER (A)
31.7.1991.

U.C. Srivastava
(U.C. SRIVASTAVA)
VICE CHAIRMAN (J)
31.7.1991.