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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A. No. 2492/89

Date of Decision: 27.08.1992

SH. A.I. ANSARI

.....

APPLICANT

VERSUS

UNION OF INDIA

.....

RESPONDENTS

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER(J)
THE HON'BLE MR. P.C. JAIN, MEMBER(A)

FOR THE APPLICANT : SH. ASHISH KALIA, PROXY COUNSEL
FOR SH. R.L. SETHI, COUNSEL.

FOR THE RESPONDENTS : NONE

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporters or not?

JUDGEMENT (ORAL)

(Delivered by Hon'ble Sh.P.C. Jain, Member(A)).

In this O.A., filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant who is said to have been appointed as P.W.I. Grade-III w.e.f. 5.12.1973, is aggrieved by the punishment of withholding of one increment with cumulative effect imposed upon him vide order dated 27.4.1984 (Annexure A-3). He has prayed for setting aside the aforesaid impugned order. This O.A. was filed on 23.11.1989, and after issue of notice to the respondents on admission and limitation, the same was admitted as the learned counsel for the respondents did not oppose the admission. This was done on 16.03.1990.

2. In spite of number of opportunities given to the respondents from 16.3.1990 till 20.03.1991, respon-

dents did not file any reply nor appeared on any of the dates fixed in this case after 27.08.1990. None is present for the respondents even today. The case is listed in the list of regular matters for final hearing. Accordingly, we have heard Sh. Ashish Kalia, proxy counsel for Sh. R.L. Sethi, counsel for the applicant and have also perused the material on record.

3. The facts of this case fall in a very narrow compass. The applicant was served a memorandum of chargesheet dated 25.1.1984 (Annexure A-6) for a minor penalty in accordance with Rule 11 of the Railway Servants (Discipline and Appeal) Rules, 1968. The allegation against him was that he was not maintaining the track to the desired standard, leading to undesirable and rather unsafe condition as detailed in AEN/MB Trolley Inspection Note dated 20.1.1984 (copy attached), thus violating the Railway Service Conduct Rules acting in a more irresponsible manner. The applicant gave his reply dated 5.2.1984 (Annexure A-4), and after consideration of the same, the disciplinary authority passed the impugned order dated 27.4.1984 wherein it is stated that his representation is not found to be satisfactory as he has accepted the charges to the desired standard and leading to undesirable unsafe connection. Thus, holding the applicant guilty of the charge for not maintaining his section, ~~such a~~ a penalty of withholding of increment, i.e. increment raising his pay from Rs.600/- to Rs.620/- in the grade of Rs.425-700, was ~~unfixed~~ withheld for a period of one year with postponing his future increment.

4. The applicant preferred an appeal dated 5.8.1985. to the Sr. Divisional Engineer-I, Northern Railway, Moradabad but in fact the appeal of the applicant is dated 5.8.1984. The applicant had stated in his O.A. and the learned proxy counsel for the applicant has reiterated at the bar that this appeal is yet to be disposed of. According to the applicant, he preferred a review to the Divisional Railway Manager, Northern Railway, Moradabad on 4.7.1989 (copy at Annexure A-5). In this representation, however, he has raised a question of punishment and also non promotion to the post of PWI Grade-II. The case of the applicant is that this so called review petition had also not been disposed of as yet. Hence this O.A.

5. Apart from the grievance of the applicant about alleged non disposal of his appeal and the review petition, the case of the applicant is that the punishment order is bad in law, contrary to rules and ⁱⁿ _{not} consonance ^{with the principle of} _{of} "good conscious and justice." It is also his case that the authority which imposed the punishment is neither the appointing ^{or} disciplinary authority, and that the penalty has been imposed by the A.E.M. himself on his own inspection note which is bad in law.

6. As regards the contention of punishing authority being not competent, neither the material on record throws any light on this point nor the learned counsel for the applicant has been able to show us as to how this contention is correct. It is also pertinent to notice that if the appeal of the applicant had not been disposed of as alleged, what was the ^{action} _{action} for filing a review petition and further alleging in the O.A. that the appellate authority failed ^{to}.

to afford reasonable opportunities to the applicant and that the appellate authority also failed to pass a speaking order on the statutory appeal. Be that as it may, we are of the view that this O.A. can be appropriately disposed of by giving a direction to Respondent No.2, namely, The Divisional Railway Manager, Northern Railway, Moradabad, to ensure that the appeal of the applicant which is said to have been preferred to the Sr. Divisional Engineer-I, Northern Railway, Moradabad should be disposed of within a period of three months from the date of receipt of a copy of this judgement and that too after giving an opportunity to the applicant for being personally heard. O.A. is disposed of accordingly. No costs.

(Signature)
(P.C. JAIN)
MEMBER (A)

(Signature)
(T.S. OBEROI)
MEMBER (J)