

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA No.134/88

Date of decision: 22.5.92

Sh. Amarjeet Singh ...
versus
Union of India ..

Applicant

versus

Union of India Respondents

Respondents

CORAM:

THE HON'BLE MR.JUSTICE RAM PAL SINGH, VICE-CHAIRMAN(J)
THE HON'BLE MR.I.P.GUPTA, MEMBER(A)

For the Applicant .. Shri R.K.Sharma,
Counsel.

For the Respondents .. Sh.O.N.Moolri,
'Counsel.

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE MR. JUSTICE RAM PAL SINGH, VICE CHAIRMAN)

The applicant was working as a permanent employee in the Northern Railway. A departmental enquiry was started against him and he was served with the memorandum of charges. During the enquiry, the applicant participated for some time, i.e., on 26.5.86, 13.6.86 and 22.7.86 but stopped appearing himself before the enquiry though his defence helper appeared before the enquiry on 1.1.87. In the absence of the delinquent the enquiry officer proceeded ex parte and after completing the enquiry, submitted the report to the disciplinary authority. The disciplinary authority imposed the penalty of removal from service upon the applicant. Thereupon the applicant filed an appeal before the appellate authority raising all the grounds in his memorandum of appeal. On dismissal of the appeal, the applicant filed this OA before this Tribunal. During the pendency of this OA, the applicant died and his wife, Smt. Jaswant Kaur and her children were brought

on record as the LRs in place of the applicant.

Shri R.K.Sharma, the learned counsel for the applicant appearing for the LRs, contended that the ex parte departmental enquiry was wrong in law; that the delinquent was removed from service by an authority not competent to pass the order of removal and that the enquiry itself suffers from many legal and factual infirmities etc.etc.

2. We have also heard Shri O.N.Moolri, learned counsel, who on behalf of the respondents justified the proceedings of the departmental enquiry in law and contended that this Tribunal should not go in the merits of the enquiry itself unless and until there has been contravention of some law or statutory rules or unless and until the findings of the disciplinary authority are totally perverse.

3. After hearing the learned counsellors for both the parties, we have perused the record and we found to our surprise that the contention of Shri R.K.Sharma is correct. All these grounds were raised in the memorandum of appeal before the appellate authority. The responsibility of the appellate authority is to go minutely on the grounds raised before it and then after looking at the record should give his independent quasi judicial finding. When the appellate authority performs his duty, he performs it as a quasi judicial functionary whose duty is to meet all the arguments made in the memorandum of appeal and thus pass a speaking order.

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4. We are satisfied that the appellate authority has abrogated abdictated his responsibility and has not given a finding on the points raised in the memorandum of appeal. We are, therefore, of the view that the order passed by the appellate authority cannot be maintained. Hence, it is quashed. We direct the appellate authority to pass appropriate orders on the appeal after affording an opportunity of being heard to the LRs of the deceased, within a period of four months from the date of receipt of a copy of this judgement. The parties shall bear their own costs. This OA thus stands finally disposed of.

5. Before parting our attention was drawn to the ordersheet dated 18.5.92 in which the normal rent was directed to be deposited by the applicant and the interim order was modified accordingly with the observation that it shall be without prejudice to the case of the respondents. The OA has been finally disposed of today. The original applicant has died. If the LRs of the deceased applicant want to reside in this quarter they shall have to ~~decide~~ ^{reside} only according to the rules prevailing. The respondents may take steps according to the rules.

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

Ram Pal Singh
(RAM PAL SINGH)
VICE CHAIRMAN(J)