

14

IN THE CENTRL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. O.A. No. 226 of 1988 . Date of decision 13.7.82.

Harish Chander-

Applicant

Shri B.S. Mainee

Counsel for the applicant

vs.

Union of India

Respondents

Shri O.N. Moolri and Romesh Gautam

Counsel for the respondents

CORAM

The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman(J).

The Hon'ble Mr. LP. Gupta, Member (A).

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

(Judgment of the Bench delivered by Hon'ble Shri Justice Ram Pal singh, Vice-Chairman (J).)

J U D G M E N T

The applicant by this O.A., filed under Section 19 of the Administrative Tribunals Act of 1985, has prayed for the relief of quashing the impugned order (Annexure A-1) dated 16.10.85 by which the minor penalty of withholding the increments for a period of three years without postponing future increments has been imposed upon him. The applicant has also prayed for the relief of quashing Annexure A-2, the appellate order passed by the appellate authority dated 6.5.87 by which the appeal of the applicant was dismissed.

2. The applicant was working as a regular railway employee in the post of Assistant Electrical Driver in Delhi Division of Northern Railways at Ghaziabad. He was served with the memorandum of chargesheet dated 15.1.85 for major penalty under Rule 7 of the Railway Servants (Discipline and Appeal) Rules of 1968.

Lawyer

3. The respondents on notice appeared and filed their counter.

They have supported the impugned orders and also contended that they were passed in accordance with the rules. Counsel for the respondents, Shri O.N. Moolri and Shri Romesh Gautam, appearing for the respondents strongly contended that the entire enquiry is in accordance with the rules.

4. The applicants have assailed the impugned orders at Annex. A-1 and Annex. A-2 on various grounds. The contention of the learned counsel for the applicant, Shri B.S. Mainee, is that the chargesheet was for imposition of the major penalty. Hence, an enquiry should have been held, but the disciplinary authority has imposed the minor penalty. Thus, the applicant has been prejudiced in his defence. He also contended that the chargesheet dated 9.1.85 is signed by one Shri R.K. Sood, but his designation has not been given to show whether he was authorised to issue the chargesheet or not. He also contended that a copy of Foreman's report was not supplied to him; that the impugned order is not a speaking order, that no reasons have been given in Annex. A-1 whereby the minor penalty was imposed. He has also contended that Annex. A-2, the order of the appellate authority, is not only cryptic but telegraphic, containing no reasons.

5. Undoubtedly, it is the duty of the appellate authority to pass a reasoned order. A great responsibility lies upon the appellate authority to see whether the departmental enquiry has been properly conducted in accordance with law or not. The appellate authority is also required to deal with the points of law and facts raised by the delinquent in the memorandum of appeal. Unfortunately, the appellate authority in Annex. A-2 has passed the following orders:

"Your appeal dated 27.2.86 has been considered by the competent authority and has been rejected. Please inform the above named employee."

This cryptic and telegraphic order passed by the appellate authority indicates that the appellate authority has abdicated its function and has not given any reasons as to why the appeal has been rejected.

Neither on facts nor on law, which was raised by way of memorandum

Lamin.

13
13

of appeal by the delinquent, they have been dealt with in the impugned order at Annex. A-2. One of the grounds was that even in a minor penalty, it is essential to pass a speaking order. It was incumbent upon the appellate authority to indicate whether Annex. A-1 (passed by the disciplinary authority) was a speaking order or not. We need not cite case laws on this point because law is settled that the order of punishment should be a speaking order. The duty to give reasons is an incident of judicial process. The order passed by the appellate authority reproducing mechanically the phraseology of the Rules without any attempt on their part either to marshal the evidence on record with a view to decide whether the findings arrived at by the disciplinary authority could be sustained or not is just a mechanical order. On perusal of Annex. A-2, it appears that the appellate authority has not applied its mind to the facts and grounds of law raised by the delinquent. The imposition of penalty by the disciplinary authority is of great responsibility because the whole future of the employee hinges upon the penalty itself. Out of the plethora of judgments on this point, we mention herein the case of Ram Chander vs. U.O.I. & Ors. (A.T.R.1986 (2) S.C. 252).

6. Without detaining ourselves more on the point, we are of the clear view that the appellate authority has abdicated its duties and responsibilities in passing Annex. A-2. Hence, we are quashing Annex. A-2 and allow this O.A. in part and direct the appellate authority of the respondents to pass a fresh reasoned order according to the law indicated hereinabove with regard to all the grounds raised by the applicant in his memorandum of appeal, which he filed before the appellate authority. We, therefore, quash Annex. A-2 and direct the appellate authority to pass appropriate orders as early as possible, preferably within a period of four months after affording an opportunity to the applicant of being heard. If the applicant is still aggrieved by the orders of the appellate authority, he can raise all those points raised in this O.A. again by filing a

Ramdh.

fresh O.A. With these directions, the O.A. is disposed of with
no order as to costs. All other issues raised, shall remain
open to the applicant.

LP Gupta
(L.P. GUPTA) 13/7/92

MEMBER (A)

Ram Pal Singh
(RAM PAL SINGH) 13.7.92

VICE-CHAIRMAN (J)