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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

MP 1355/88

O.A. No. 34

T.A. No.

1988.

DATE OF DECISION July 19, 1988.

Shri Narottam Dass Petitioner

Shri B.S. Mainee, Advocate for the Petitioner(s)

Versus

Union of India and ors Respondents.

Shri S.N. Sikka, Advocate for the Respondent(s)

CORAM :


The Hon'ble Mr. Justice K. Madhava Reddy, Chairman.

The Hon'ble Mr. Kaushal Kumar, Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether to be circulated to other Benches? No



(Kaushal Kumar)  
Member  
19.7.1988.

  
(K. Madhava Reddy)  
Chairman  
19.7.1988.

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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
DELHI.

MP 1355/88  
OA 34/1988.

July 19, 1988.

Shri Narottam Dass ... Applicant.

Vs.

Union of India and ors ... Respondents.

CORAM:

Hon'ble Mr. Justice K. Madhava Reddy, Chairman.


Hon'ble Mr. Kaushal Kumar, Member.

For the applicant ... Shri B.S. Mainee, counsel.

For the respondents ... Shri S.N. Sikka, counsel.

(Judgment of the Bench delivered by Hon'ble  
Mr. Justice K. Madhava Reddy, Chairman).

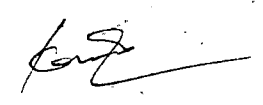
In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant, a Divisional Electrical Engineer/TRD, Northern Railway, Tundla, who was due for being considered for promotion, calls in question the Order No.E (O)1/86/PU2/35 dated 10.3.1987 issued by the Ministry of Railways (Railway Board) (Annexure A-1) imposing the penalty of withholding the of of next increment of pay in grade/Rs.1100-1600, for a period of one year with cumulative effect for failure to maintain absolute integrity, devotion to duty and acting in a manner unbecoming of a railway servant in contravention of Rule 3(1)(i), (ii) and (iii) of the Railway Services (Conduct) Rules, 1966. He had preferred an appeal against that order. That appeal was pending



when this application was filed. In this application, he further claims that the respondents be directed to promote the applicant from the date he became due. This application was admitted on 8.1.1988, and notice of hearing was served on the respondents.

The appeal preferred by the applicant was allowed by the President by Memorandum No.E(O)1-87-AE3/6 dated 9.3.1988 (Annexure 'X') and the order dated 10.3.1987 imposing the penalty of withholding of next increment was set aside and the matter was remitted to the Railway Board which was the Disciplinary Authority. The order of the Railway Board dated 10.3.1987 was set aside mainly on the ground that "an inquiry as required under Rule 11(2) of the Railway Servants (Discipline and Appeal) Rules 1968 was not held". On receiving the record pursuant to the order of the President, the Railway Board reconsidered the matter the very same day and imposed the penalty of withholding of next increment of pay in <sup>the</sup> grade of Rs.3000-4500 (RPS) for a period of two years without cumulative effect.

It is rightly argued by Shri B.S. Mainee, counsel for the applicant that after an application under Section 19 of the Administrative Tribunals Act was admitted by this Tribunal, the Appellate Authority was



not competent to dispose of the appeal. The appeal abates under Section 19(4) of the Administrative Tribunals Act. This contention must be upheld. The order of the Railway Board issued vide Memorandum No.E(O)1-87-AE3/6 dated 9.3.1988 is, therefore, unsustainable. It is accordingly quashed. Pursuant to that order, another order No.E(O)1-87-AE3/6 dated 9.3.1988 was passed by the Railway Board. Consequently that order also must be quashed. That would be an order passed pursuant to a direction which was itself unsustainable. That order is, therefore, quashed.

So far as the first order dated 10.3.1987 is concerned, even according to the respondents, that order was made without any inquiry envisaged by Rule 11(2) of the Railway Servants (Discipline & Appeal) Rules, 1968. That order also cannot, therefore, be sustained. It is accordingly quashed. Since the original order was made without an inquiry in accordance with the Railway Servants (Discipline & Appeal) Rules, 1968, it is upto the respondents to decide whether they should continue the disciplinary proceedings or not. It is upto them to take such action as they may deem fit. So far as the impugned orders are concerned, they are quashed.

The second prayer in this application is that the respondents should be directed to promote the applicant from the date from which the promotion is due. As it



is not disputed that the applicant fulfils the qualifications prescribed for the post, the respondents would, of course, consider the applicant for promotion. There cannot be any direction to the respondents to promote the applicant from any particular date. But there shall be a direction that the respondents will consider the applicant for promotion in accordance with the Rules and Instructions, if any, governing the situation.

This application is allowed as indicated above with no order as to costs.



(Kaushal Kumar)  
Member  
19.7.1988.



(K. Madhava Reddy)  
Chairman  
19.7.1988.