

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW DELHI

O.A. No. 1220/88  
~~TxAxNo:~~

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DATE OF DECISION 7.12.1990.

Shri N.L. Kataria	Petitioner
Shri B.S. Mainee	Advocate for the Petitioner(s)
Versus	
Union of India & Ors.	Respondent
Shri S.N. Sikka	Advocate for the Respondent(s)

### CORAM

The Hon'ble Mr. S.P. Mukerji, Vice-Chairman(A).

The Hon'ble Mr. T.S. Oberoi, Member(J).

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

### O R D E R

(Hon'ble Shri S.P. Mukerji,  
Vice-Chairman)

In this Application under Section 19 of the Administrative Tribunals Act, 1985 dated 14.6.1988 the Applicant, who was working as Assistant Signal & Telecommunication Engineer, had been subjected to disciplinary proceedings resulting in punishment of withholding of increment for a period of one year by the order of General Manager dated 24.4.1987 (Annexure A-1). He has prayed that the impugned order of punishment referred to above should be set aside.

We have heard arguments of learned counsel for both the parties and gone through the documents. It <sup>is revealed</sup> ~~appears to us~~ that against the aforesaid order of the General Manager dated 24.4.1987, the applicant had filed a Statutory Appeal on 24.6.1987 (Annexure A-4), <sup>according to the learned counsel for the respondents</sup> which has not yet been disposed of till now. The <sup>applicant</sup> ~~applicant~~ <sup>to</sup> had filed <sup>it</sup> ~~it~~

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this Application before the Tribunal on 14.6.1988 as his  
(acknowledged at A-5)  
appeal dated 24.6.1987 remained pending <sup>with</sup> ~~on~~ the respondents.

If he had waited any further, his Application before the Tribunal would have become time barred. He could not approach the Tribunal without filing a statutory appeal as that would have been premature. The learned counsel for the applicant brought to our notice the order of the Railway Board No. E(D&A)71 RG 6-22 of 11.6.71 in accordance with which the appeals normally have to be disposed of within a period of one month. In the circumstances without remitting the case to the Appellate Authority, we proceed to dispose of the O.A. on merits. We have gone through the order dated 24.4.1987, which reads as follows:

"I have carefully considered your representation dt. 30.1.1987 in reply to the Memorandum No. E-141/548/Vig./E(D&A) dated 29.9.86/7.10.86. I do not find your representation to be satisfactory and I hold that while working as ASTE, Rewari, you failed to get the previous Casual Labour service of Sh. Parma Nand Tiwari verified before his appointment as Casual Labour and also misused his services for domestic work at your residence. I also hold you guilty of keeping an outside in the accommodation allotted to you by the Railway Administration. After taking into consideration all the facts and circumstances of the case, I have decided to impose upon you the penalty of with-holding of your next increment for a period of one year without affecting your future increments.

2. Under Rule 18 of the Railway Servants(D&A) Rules, 1968, an appeal against these orders lies to the Rly. Board provided that :-

- (i) the appeal is submitted within 45 days from the date you receive these orders; and
- (ii) the appeal does not contain improper/disrespectful language.

3. Please acknowledge receipt.

Sd/- x x x  
(A.N. Wanchoo)  
General Manager"

The above order shows that there is nothing to indicate that the Appellate Authority has applied his mind. He has also

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failed in his quasi-judicial duties/obligations<sup>requiring him</sup> as a Disciplinary Authority to indicate the reasons of imposing the penalty on the applicant. Since in this case there was no inquiry held, the question<sup>from</sup> of exemption<sup>from</sup> of giving reasons on the ground that the Disciplinary Authority has agreed with the reasons<sup>given in the</sup> report of the Inquiry Officer, is not available in this case. There is a plethora of decisions of<sup>the</sup> High Courts and<sup>the</sup> Supreme Court in which it has been observed that the disciplinary proceedings being quasi-judicial in nature, the orders must be speaking. In Dr. P.K. Mittal Vs. State of Punjab (1982(3)SLR, 222), the Punjab and Haryana High Court indicated that even in case of a minor penalty, it is essential to pass a speaking order. A similar view was taken by the High Court of Delhi in R.S. Sehgal Vs. Director General, Posts and Telegraphs and Ors. (1983(2)SLR, 473). The Constitution Bench of the Supreme Court in Shri S.N. Mukherjee Vs. Union of India (JT 1990(3) SC 630) held that an Administrative authority while exercising quasi-judicial functions, must record reasons for its decisions except where the requirement has been dispensed with expressly or by necessary implication. The Railway Board themselves in their order No. E(D&A)RD 6-1-11 of 3.3.1978 had directed that final orders passed by the Disciplinary Authority should be speaking orders i.e. the authority passing orders must apply its mind and should then pass ~~the~~ orders giving reasons thereto.

In the facts and circumstances, we allow the Application and set aside the impugned order dated 24.4.1987 without any order as to costs.

( T.S.OBEROI )  
MEMBER (J)

(S.P. MUKERJI)  
VICE CHAIRMAN (A)