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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW BENCH

O.A. No. 186 of 1987.

Decided on 23.3.1990.

Ajit Rai & others

.....Applicants.

Vs.

1. Union of India, through General Manager,
Northern Railway, Baroda House, New Delhi.

2. Divisional Railway Manager,
Northern Railway, DRM Office,
Ferozpur Cantt.

3. Shri Dharam Singh,
Divisional Operating Supdt. Northern Railway,
DRM Office, Ferozpur Cantt.

.....Respondents.

For the Applicants - None for Applicants.

For the Respondents. - Mr. O.N. Moolri, Advocate.

B.S. Sekhon:

The instant Application is directed against the order dated December 5, 1985 imposing the penalty of removal from service on the Applicant. The Applicant who was serving as Pointsman at Ludhiana was proceeded against in a departmental enquiry in respect of the following articles of charge:-

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- " i) He is habitual for remaining in drunkard condition. He is also habitual for misbehaving and insulting his colleagues i.e. Shri Choor Singh, Waterman/BKB on 27.9.83 and Shri Mohan Singh, P.M. on 23.2.1983.
- ii) He had abused, insulted and misbehaved Shri M.L. Chopra SM/BKB in front of his house at 23/- hrs. on 9.9.83 in presence of Shri Tarsem Lal Pointsman/BKB and Shri Soma, S/Wala/BKB and confessed his fault in his own compromised statement on 11.9.83.
- iii) He again insulted, misbehaved and abused Shri S.D. Kainth, ASM/BKB on 8.12.83 when he was asked to seal and rivet the wagon of foodgrain special, in presence of Shri Gurdev Singh P/Man/BKB."

He was proceeded against ex-parte. By virtue of the impugned order the penalty of dismissal was imposed by the Divisional Operating Superintendent, Northern Railway, Ferozpur. Applicant preferred an appeal (copy at pages 84-85 of the Paper-book) against the aforesaid order. The same was rejected by the Appellate Authority on January 20, 1986. The order made by the Appellate Authority was communicated to the Applicant vide communication dated October, 1986 (copy at page 86 of Paper-book). Vide para 8 of the appeal Applicant had also requested for a personal hearing. Applicant has also assailed the order made by the Appellate Authority.

2. Respondents have contested the Application.

3. None has put/appearance on behalf of the Applicant /despite the fact that the case has ~~been~~ remained ⁱⁿ on board for several days. We/accordingly proceeding to dispose of the Application on the basis of the record and the arguments addressed by the learned counsel for the Respondents.

4. A perusal of the appellate order reveals that the Appellate Authority had not granted a personal hearing to the Applicant. That apart, the appellate order has not been passed in accordance with the provisions of Rule 22(2) of the Railway Servants (Disciplinary & Appeal) Rules, 1968. The appellate order is clearly hit by the dictum of the Supreme Court in Ram Chander Vs. Union of India AIR 1986 SC 1173, and so is not sustainable.

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5. In view of the order we propose to make it is neither advisable nor appropriate to deal with the contentions on the basis of which the enquiry and the order made by the Disciplinary authority have been assailed. This is for the reason that any expression of opinion on our part may not

prejudice either party's case before Appellate Authority.

Holding as we do, that the order made by the Appellate Authority is not sustainable, we hereby remit the case to the Appellate Authority with the direction to pass a fresh order in accordance with law after granting personal hearing to the Applicant. The Appellate Authority is directed to pass such order within three months from today. The Application is disposed of accordingly.

6. In the circumstances, there will be no order as to costs.

Dec 23/3/90
(P.C. Jain)
Administrative Member

B.S. Sekhon
Vice Chairman

23-3-90

MSR