

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

8-

NEW DELHI

O.A. No.

246/87

199

T.A. No.

DATE OF DECISION 6.12.90Raj Pal Singh

Petitioner

Shri S.K. Sawhney

Advocate for the Petitioner(s)

Versus

UOI and others

Respondent

Shri D.N. Mehta

Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. S.P. Mukerji, V.C.The Hon'ble Mr. G.Sreedharan Nair, V.C.

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

*(G.Sreedharan Nair)*  
Vice-Chairman

- 9 -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Registration No. O.A.236 of 1987

Date of order 6.12.1990

Raj Pal Singh ..

Applicant

- versus -

Union of India and others ..

Respondents

CORAM: Hon'ble Shri S.P. Mukerji, V.C.

Hon'ble Shri G.Sreedharan Nair, V.C.

Counsel for the applicant : Shri S.K. Sawhney

Counsel for the respondents : Shri O.N. Meelri

ORDER

Hon'ble Shri G.Sreedharan Nair, V.C.:-

The applicant while working as Assistant Station Master was proceeded against under the Railway Servants (Discipline and Appeal) Rules, for short "the Rules", for misconduct, by the issue of a memo of charges dated 5.4.1984. The applicant filed a reply denying the charge. Without holding any enquiry, the disciplinary authority by the order dated 24.5.1984/26.6.1984 imposed upon the applicant the penalty of permanent withholding of increments for three years. The appeal preferred by the applicant was rejected by the appellate authority by the order dated 26.2.1985/20.4.1985.

2. The applicant assails the order imposing the penalty. It is urged that as the memo of charges was issued for a major penalty, and since the penalty of withholding of increment permanently for three years was imposed, the holding of an enquiry was a must.

It is further urged that neither the disciplinary authority nor the appellate authority applied its mind to the facts and as such the order imposing the penalty is bad in law.

3. The respondents have filed a reply wherein a preliminary objection is raised that the application is barred by limitation. On the merits, it is contended that the order imposing the penalty has been passed in accordance with the Rules and does not require interference.

4. Since the original application has been filed more than any year after the order of the appellate authority, counsel of the respondents pressed the preliminary objection regarding bar of limitation. However, in view of the order passed by a Bench of this Tribunal, on 18.9.1987, after the respondents entered appearance, and on hearing counsel on either side, condoning the delay, the preliminary objection has to be ~~overruled~~ overruled. We do so.

5. On the merits, the applicant is to succeed.

6. On receipt of memo of charges the applicant had filed written statement denying the charge. Yet without holding an enquiry as contemplated under rule 9 of the Rules, the penalty was imposed. Besides, considering the nature of the penalty, since it is to operate with cumulative effect, the holding of an enquiry in the manner laid down in rule 9 of the Rules was mandatory in view of sub-rule(2) of rule 11 of the Rules.

7. From the copy of the order of the disciplinary authority that has been produced by the applicant, it cannot be said that the disciplinary authority applied its mind to the facts and circumstances of the case in order to find out the truth of the

imputation contained in the memo of charges. The order of the appellate authority does not conform to the requirements of sub-rule(2) of rule 22 of the Rules.

8. In view of the foregoing, the order of the disciplinary authority dated 24.5.1984/26.6.1984 as confirmed by the order of the appellate authority dated 26.2.1985/20.4.1985 is hereby quashed.

9. The application is disposed of as above.

*Case No. 1*  
*6.12.1990*  
(G.Sreedharan Nair)  
Vice-Chairman

*S. Mukherji*  
6. XII. 90  
(S.P. Mukherji)  
Vice-Chairman

C. Mahto  
4.12.90