

17

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 276/87

DECIDED ON : 19.8.1993

Gulzar Singh

... Petitioner

Vs.

Union of India & Ors.

... Respondents

CORAM :

THE HON'BLE MR. JUSTICE S. K. DHAON, V.C.(J)

THE HON'BLE MR. B. N. DHOUNDIYAL, MEMBER (A)

Shri Umesh Misra, Counsel for Petitioner

Shri O. N. Moolri, Counsel for Respondents

J U D G M E N T (ORAL)

Hon'ble Mr. Justice S. K. Dhaon —

The petitioner was subjected to disciplinary proceedings. The allegation was that in his capacity as PWI he committed certain acts of misconduct. An inquiry officer was appointed. He submitted his report to the punishing authority. The punishing authority passed the order of punishment to the effect that the petitioner should be compulsorily retired from service. Feeling aggrieved, the petitioner went^{up} in appeal, and the appellate authority, by its order passed some time in October, 1985, dismissed the appeal. The orders passed by the punishing authority and the appellate authority are being impugned in the present application.

2. The order actually passed by the appellate authority is not before us. Even the respondents have not filed a true copy of the order. However, from a perusal of Annexure-H to the O.A., it transpires that the Chief Engg. NDLS passed the following order upon the memorandum of

319

appeal filed by the petitioner :-

"(1) The procedure laid down in the rules has been complied with.

(2) The findings of the disciplinary authority are narrated by the evidence on record.

(3) The penalty imposed is appropriate. The C.E. has accordingly rejected the appeal of Shri Gulzar Singh."

3. The procedure adopted by the appellate authority while disposing of the appeal was really a novel one. He felt that he was exercising some sort of supervisory jurisdiction. He failed to appreciate that under the statute he was functioning as ^{an} appellate authority, the authority which is required to go into the merits of the case, appraise the evidence and then record an independent finding on the question whether the charge of misconduct has been brought home. Rule 22 of the Railway Servants (Discipline & Appeal) Rules, 1968 cast a statutory duty upon the appellate authority to consider the grievance made by an appellant. The consideration required under the said Rules is an objective one and not a subjective one. He has, therefore, to apply his mind objectively whether the case of the appellant has any force and then come to a final decision. We are satisfied that the appellate authority acted rather mechanically while disposing of the appeal of the petitioner. Its order, therefore, is not sustainable.

4. We are informed that during the pendency of this U.A., the petitioner made some sort of representation to the Minister concerned. On 5.11.1990, the Additional Private Secretary to the Minister made certain comments. It will be open to the petitioner to bring ^{the} on record of the

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19

appellate authority the representation made by him (the petitioner) and orders and recommendations made thereon by the Additional Private Secretary to the Minister.

It will be open to the appellate authority to look into the same and thereafter pass an independent order on merits and in accordance with law, after hearing the appellant in person. It shall pass a speaking order and forward a copy of its order to the petitioner within a period of three weeks of the passing of the same.

It shall dispose of the appeal as expeditiously as possible but not beyond a period of three months from the date of receipt of a certified copy of this order.

5. We make it clear that the appellate authority shall not be influenced at all by the comments made by the Addl. Private Secretary to the Minister.

6. This application succeeds in part. The order passed by the appellate authority in October, 1985 is quashed. However, it is made clear that ~~the order~~ⁱⁿ of the punishing authority shall act strictly in accordance with law and in the light of the directions given above.

7. There shall be no orders as to costs.

B. N. Dhoundiyal
(B. N. Dhoundiyal)
Member (A)

S. K. Dhaon
(S. K. Dhaon)
Vice Chairman (J)

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