

7

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No. 1137/90

New Delhi this the 19th August, 1994.

Hon'ble Mr. S.R. Adige, Member (A)

Hon'ble Mrs. Lakshmi Swaminathan (J)

Shri S.C. Kulshreshtha,
s/o Shri H.L. Kulshreshtha,
Station Master,
Northern Railway,
Chhalesar

.....Applicant.

By Advocate Shri B.S. Mainee.

Versus

Union of India & others through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi

2. The Sr. Divisional Operating Superintendent,
Northern Railway,
Allahabad.

..... Respondents.

By Advocate Shri R.L. Dhawan.

JUDGMENT

By Hon'ble Mr. S.R. Adige, Member (A)

In this application, Shri S.C. Kulshreshtha, Station Master, Northern Railway, Chhalesar has impugned the order dated March, 1990 (Annexure-A1) imposing upon him the penalty of reduction to a lower grade of ASM in the scale of Rs. 1200-2040/- (revised) at the minimum of the grade for a period of two years without postponing future increments.

2. It is common ground that the station at which the applicant was working, had been non-interlocked on 2.4.89 for providing colour light signal and in the process, all the signals at Station had been uprooted and the trains were being received and dispatched only on written memos instead of signals. On 5.4.89, at 5 a.m. a train got derailed. A departmental enquiry was conducted

8

against the applicant and ASM Shri Murari Lal on the ground that he (applicant) failed to follow the rules regarding safe working and ensuring safety of public. The Enquiry Officer in his findings (Annexure-A3) held that the charges against the two had not been substantiated. The Disciplinary Authority dis-agreeing with the findings of the Enquiry Officer held the applicant guilty and imposed the impugned punishment.

3. Shri Mainee for the applicant has assailed the impugned order on three ground:-

- i) Vagueness of charge-sheet;
- ii) As the Disciplinary Authority disagreed with the findings of the Enquiry Officer, he should have supplied a copy of those findings to the applicant, and given him an opportunity to show cause before imposing the punishment. In this connection, Shri Mainee has relied on Narain Mishra Vs. State of Orissa -1969(3)SLR 657 and S.C. Miglani Vs. UOI-ATJ 1991(2) 598;
- iii) It has not been established how the rules said to have been violated; who has been guilty of violation of rules, not mentioned in the charge-sheet.

4. Shri Dhawan for the respondent has urged that Under Rule 10(3) read with Rule 12 of the Railway Servants(Discipline & Appeals) Rules, 1968, it is not necessary for the Disciplinary Authority to furnish a copy of the enquiry report, together with the reasons for his disagreement before he proceeds to impose the penalty and the impugned order, while annexing the enquiry report and giving the reasons for dis-agreement itself has provided the applicant an opportunity to appeal against the penalty. Shri Dhawan has urged that the applicant should have exhausted the departmental remedy in the first instance by filing the appeal before coming to the Tribunal.

9

In this connection our attention has been drawn to the judgment of the Tribunal dated 12.2.90 in O.A.No.2043/89 J.N.Misra Vs. UOI & others, where the applicant without exhausting the appellate forum had filed the O.A. in CAT which was disposed of by the Tribunal with a direction that the applicant should submit an appeal in the first instance. As section 20 ATAct lays down that an application shall not ordinarily be admitted unless the applicant has availed all the remedies available to him and as the scope of an appeal, in any case, is much wider than the jurisdiction of the Tribunal in such matters, we dispose of this application with a direction that the applicant should in the first instance exhaust the statutory remedy available to him of filing an appeal against the impugned order. The appellate authority should decide the appeal within three months from the date ^{of being} ~~it~~ filed, taking into account the alleged infirmities pointed out by the applicant in the application, and should pass a speaking order on the said appeal under communication to the applicant. If any grievance survives thereafter, the applicant will be at liberty ^{to} ~~to~~ file a fresh application before the Tribunal in accordance with law. No costs.

Lakshmi Swaminathan
(Mrs LAKSHMI SWAMINATHAN)
MEMBER (J)

S.R. Adige
(S.R. ADIGE)
MEMBER (A)

/ug/