

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.  
OA.No.2269/90  
Dated this the 3rd April, 1995.

Hon'ble Shri N.V. Krishnan, Vice Chairman(A)  
Hon'ble Dr. A. Vedavalli, Member(J)

S.P.Garg,  
Ex.Inspector of Works(Planning),  
Northern Railway,  
D.R.M. Office,  
New Delhi. ....Applicant

By Advocate: Shri B.S. Mainee.

versus

Union of India through

1. The Chairman,  
Railway Board,  
Rail Bhawan,  
New Delhi.
2. The General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
3. The Divisional Railway Manager,  
Northern Railway,  
State Entry Road,  
New Delhi. ....Respondents

By Advocate: Shri Shyam Moorjani by Shri U.Srivastava.

O R D E R (Oral)

(By Shri N.V. Krishnan)

The applicant was a Permanent Way Inspector under the respondents. Departmental proceedings were initiated against him by the issue of Annexure A-2 memorandum of charges dated 26.9.84 relating to six articles of charges. An enquiry was conducted and by the impugned Annexure A-1 order dated 16.9.88, the departmental authority removed the applicant from service. The applicant filed an appeal to the Chairman, Railway Board on 4.11.88 (Annexure A-23). The appeal memorandum runs into 12 pages. He had taken for consideration each of the charges and impugned the enquiry proceedings and the penalty

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imposed upon him. That appeal, not having been disposed of, the applicant submitted a reminder on 18.5.89 (Annexure A-24). Thereafter, he filed a review/revision application to the President of India dated 8.10.89 (Annexure A-25). Not receiving any response from the respondents, this OA was filed on 4.10.90 to quash the impugned order of the disciplinary authority and to direct the respondents to reinstate him in service with all consequential benefits.

2. The respondents have filed their reply on 2.7.91 contesting these claims.

3. During the pendency of this OA, the appellate authority passed an order on 31.5.93 rejecting the appeal (Annexure A-28). Therefore, the applicant filed an amended OA seeking a direction ~~to the~~ <sup>to</sup> respondents to quash the appellate order also.

4. The matter came up for final hearing today. It is pointed out that the appellate order is ~~an~~ non-speaking order. Before passing that order, the applicant was asked on 4.5.93 (Annexure A-26) to attend the office of Joint Director (D&A) in the Rail Bhawan in connection with his D&R case. He was not informed that this was in connection with his appearance before the appellate authority. The appellate authority has dismissed the appeal without considering his detailed appeal.

5. The learned counsel pointed out that the appellate order is a non-speaking order and does not dispose of the issues raised by him in his appeal. We

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wanted to know whether the applicant would be satisfied if the appellate order is quashed and direction given to the appellate authority to record a proper order in accordance with law. The applicant has no objection to such disposal.

6. The learned counsel for the respondents raised the issue of limitation. In the circumstances mentioned above, we find that the issue of limitation does not arise at all. The OA is within time. In so far as the appellate order is concerned, he has no objection to dispose of the case on the above lines.

7. We are constrained to observe that the appellate authority, which is the Railway Board itself, has paid scant attention to the provisions of Rule-22 of the Railway Servant (Discipline & Appeal) Rules, 1968. That rule relates to the manner in which the appeal should be considered. For the appellate authority's benefit, we have to reproduce the relevant provisions contained in sub-clause-2 of Rule-22.

"(2) In the case of an appeal against an order imposing any of the penalties specified in Rule 6 or enhancing any penalty imposed under the said rule, the appellate authority shall consider-

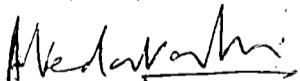
- (a) whether the procedure laid down in these rules has been complied with, and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;
- (b) whether the findings of the disciplinary authority are warranted by the evidence on the record; and
- (c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe, and pass orders-
  - (i) confirming, enhancing, reducing or setting aside the penalty; or

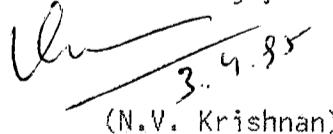
(29)

(ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such directions as it may deem fit in the circumstances of the case;"

8. A perusal of the order of the appellate authority shows that this provision has not been complied with for, the applicant has raised a number of issues in the Annexure A-23 memo of appeal, which should have been considered by a specific order to satisfy the requirements of clause (a), (b) and (c), reproduced above. Therefore, it is necessary to quash that order. We do so. Accordingly we direct the Ist respondent to ensure that this matter is now considered by the appellate authority who is directed to give personal hearing to the applicant in this regard and pass a speaking order in accordance with law, keeping in view, the provisions of Rule-22, referred to above, and the memorandum of appeal filed by the applicant. Such an appellate order should be passed within four months from the date of receipt of this order.

9. In the circumstances, we are of the view that the applicant should also be paid costs by the first respondent which is quantified at Rs.1000/- (Rupees One Thousand only). The OA is disposed of accordingly.

  
(Dr. A. Vedavalli)  
Member(J)

  
3.4.85  
(N.V. Krishnan)  
Vice Chairman(A)

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