

(28)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA-577/90.

New Delhi this the 31st day of July, 1998.

Hon'ble Sh. T.N. Bhat, Member(J)  
Hon'ble Sh. S.P. Biswas, Member(A)

Shri Har Narain,  
R/o 5-Azad Nagar,  
Rohtak,  
Haryana-124001.

.... Applicant

(through Sh. Romesh Gautam, advocate)

versus

Union of India through

1. General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
2. Chief Comml. Supdt.,  
Northern Railway,  
Baroda House,  
New Delhi.
3. A.D.R.M.,  
Divisional Office,  
Northern Railway,  
New Delhi.
4. Sr. Divl. Comml. Supdt.,  
Divl. Office,  
Northern Railway,  
New Delhi.
5. Divl. Comml. Supdt.,  
Northern Railway,  
Divisional Office,  
New Delhi.

.... Respondents

(through Sh. P.S. Mahendru, advocate)

ORDER(ORAL)

Hon'ble Sh. S.P. Biswas, Member(A)

The applicant, a Head Parcel Clerk of Delhi Division under Respondent No.1 is aggrieved by the Annexure A-1 order dated 21.5.87/11.6.87 by which he has been punished with reduction in the same grade by one stage for a period of 2 years with cumulative effect from the stage of Rs.1440 to Rs.1400/- in the pay scale of Rs.1400-2300.

2. After the receipt of the aforesaid orders of punishment, the applicant preferred an appeal dated 21.8.87 setting out the circumstances as to how he has been wrongly punished and impressing upon the respondents Railways to consider his appeal in the light of the details given therein.

3. The facts of the case in brief are as under:-

The applicant was working as a Head Parcel Clerk in New Delhi Parcel Office on 1.5.86 and committed serious acts of omission and commission. He had, as alleged by the respondents, unauthorisedly permitted one Sh. Lal Bahadur, an outsider agent to prepare railway receipts for the goods/parcel packets offered by passengers for outward disposal. Besides the aforesaid main charge, there are 5 other charges, as indicated in A-3/2, for which a major penalty chargesheet was issued to him in August 1986. In the enquiry held, the charges against 5 of them were proved out of 6. The impugned order at Annexure A-1 is in pursuance of the enquiry officer's report at A-10.

4. While arguing the case, the learned counsel for the applicant brought to our notice a catalogue of genuine administrative difficulties he was forced to face at the time of discharging his official responsibilities. This particularly relates to looking after the working of two different counters at the same time. The applicant submits that he made only a technical mistake having declared his private cash in a

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log book but not in the appropriate register as stipulated by the respondents-Railways. Since the punishment imposed in A-1 was one of those specified under Rule 18 of the Railway Board's (D&A) Rules, the applicant preferred an appeal to Sr. DCS/Delhi Division vide Annexure A-11 dated 21.8.86. Subsequently he had preferred revision and mercy petitions which were rejected by the respondents.

5. We have heard the learned counsel for both the parties and perused the records. A close look at Annexure-2 indicates that the appeal has not been disposed of in terms of the rules laid down on the subject. A-2 reads as under:-

"Your appeal dt. 21.8.87 has been carefully considered by Sr. DCS/NDLS, in terms of Rules 22(2) of R.S. (D&A) Rules 1968. He has up-held the decision of the disciplinary Authority & rejected the same.

This is for your information."

The aforesaid Appellate order looks like the head of sphinx without conveying any reasons in terms of Rule 22(2) of the Railway Servants (Discipline & Appeal) Rules, 1968. Rule 22(2) lays down the following:-

"(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
  - (i) confirming, enhancing, reducing or setting aside the penalty; or
  - (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."

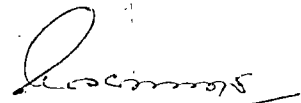
The Appellate Authority has to comment/record his views in respect of all the issues/points elaborated in the rule alongwith reasons. It is not in dispute that the present appellate order at A-2 is not in conformity with requirements of rule in terms of Rule 22(2) of the Railway Servants (Discipline & Appeal) Rules, 1968.

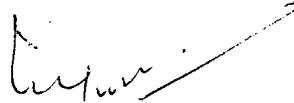
6. Besides the legal infirmities in respect of the Appellate order, we also find apparent illegalities in the disposal of the order by the Disciplinary Authority at A-1. The Railway Board's instructions contained in their letter No. E(D&A)

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8. In the light of what has been held and discussed above, the application is allowed. We quash impugned orders dated 11.6.87 and 15.9.87 and remit the matter to respondents-Railways. Both Disciplinary Authority and Appellate Authority will be at liberty to initiate fresh actions in terms of law from the stage of passing necessary speaking orders following enquiry officer's report.

9. The O.A. is disposed of as above. No costs.

  
(S.P. Biswas)  
Member (A)

  
(T.N. Bhat)  
Member (J)

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