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CENTRAL ADMINISTRATIVE TRIBUNAL:PRINCIPAL BENCH.

O.A. NO. 1155/91

New Delhi this the 13th day of October, 1995.

Hon'ble Shri N.V. Krishnan, Acting Chairman.

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Shri Sona Lal Hansda,
S/o Shri Barka Hansda,
Superintendent under Locoforeman,
Northern Railway,
Saharanpur(UP).

..Petitioner.

By Advocate Shri B.S. Maine (though none present).

Versus

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

2. The Divisional Railway Manager,
Northern Railway,
Ambala.

..Respondents.

By Advocate Shri K.K. Patel(At the end).

ORDER (ORAL)

Hon'ble Shri N.V. Krishnan.

When this case was called out, none appeared for either party. We have, therefore, perused the records and this O.A. is being disposed of on the basis of the pleadings on record.

2. The disciplinary proceedings were held against the applicant in which an order has been passed reverting him from the post of Superintendent to that of an Assistant Superintendent. In our proceedings of 10.7.1995, it was noted that the copy of the inquiry report was admittedly not supplied to the applicant nor was the punishment order served upon him. The respondents then stated that though the order of punishment was sought to be served on the applicant, but he

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refused to accept the same. The Tribunal felt that the department was obliged to place these records before them with their reply. As this was not done, the respondents were directed to file a supplementary reply enclosing these documents. Accordingly, an additional reply has been filed on 17.7.1995 enclosing a copy of the inquiry report dated March, 1991, submitted by Shri B.S. Anand, Senior Fuel Inspector/SRE (Inquiry Officer). The other document enclosed therein /is the order dated 30.4.1991 imposing the penalty. The penalty imposed is that the applicant was reduced to the lower post or service of Assistant Superintendent in the scale of Rs.1600/- p.m. (Rs.1600-2600) until he is found fit by the competent authority. After a period of two years from the date of the order, he was to be restored to the higher post of Office Superintendent in the scale of Rs.2000-3200 without postponing future increment.

3. We have seen the report of the Inquiry Officer. He states that the dates for the Inquiry had been fixed several times but every time it had to be postponed due to non-attendance of the Sr. Vigilance Inspector, who was the only witness shown in the memo of charges to be examined to prove the articles of charges. His superior authority had also been informed on 8.2.1991 and 16.2.1991 to spare this official for the inquiry. In spite of the service of the

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registered letter, this witness did not appear. Ultimately, the Senior Vigilance Inspector established contact with the Inquiry Officer and requested him to fix the inquiry on 4.3.1991. On that date also, this witness did not turn up. Accordingly, the Inquiry Officer recorded the statement of the delinquent himself. It was on the basis of this evidence that he has concluded that the charges are proved.

4. We are of the view that if the only prosecution witness who was to appear before the Inquiry Officer to prove the charges and also to prove the documents on the basis of which the charges are to be proved had failed to appear before the Inquiry Officer, the latter had no alternative except to record his finding that, despite being given an opportunity, the department had failed to prove the charges. It was improper for the Inquiry Officer to examine the delinquent in the disciplinary inquiry without his examining the witnesses of the department. In view of this major irregularity, we are of the view that the entire proceedings are vitiated. Accordingly, the impugned order of the disciplinary authority is quashed. The applicant is directed to be reinstated to the original post of Superintendent from the date from which he has been reduced to the rank of Assistant Superintendent by the aforesaid order with all consequential benefits. We order accordingly.

5. After the order was dictated, Shri K.K. Patel, appeared for the respondents.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

'SRD'

N.V. Krishnan
13.10.95
(N.V. Krishnan)

Acting Chairman