

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.1660 of 1992

(23)

NEW Delhi, dated this the 14th day of July, 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri Radhey Shiam,
S/p Shri Bhooman Saran,
R/o Ajay Sanjay Bhawan,
Prasadi Lal Road,
Opp. Ustad Kanhaya Lal House, APPLICANT
Moradabad.

(By Advocate: Shri G.D. Bhandari)

versus

1. Union of India through
the General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divl. Railway Manager,
Northern Railway, RESPONDENTS
Moradabad.

(None appeared)

ORDER (oral)

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns the disciplinary authority's order dated 21.12.89 imposing the penalty of withholding of increment for a period two years, without postponing future increment and the appellate authority's order dated 14/18.11.91 rejecting the appeal.

2. Applicant was proceeded against departmentally by charge sheet dated 20.2.85, in which it was stated that while working as Senior Clerk under IOW/CH during the period from 1.1.84 to 27.3.84 he (i) failed to detect the date of retirement of one Shri Ali Bux on 31.12.83, and

(ii) after getting the entry of retirement attested by IOW/CH he made an addition in the entry.

3. The Disciplinary Authority vide impugned order dated 21.12.89 (Ann. A-1) held the applicant guilty of having made an addition in the entry made by IOW/CH after attestation and imposed the punishment of withholding increment for two years without postponing future increments, which was upheld in appeal by the Appellate Authority vide impugned order dated 14/18.11.91 (Ann. A-3).

4. We have heard applicant's counsel Shri Bhandari. None appeared for the respondents even on the second call, although respondents' counsel was present on the earlier dates and should have been aware that the case would come up for hearing to-day as it was listed at Sl. No.1 in the list for regular cases. As this is an old case, filed in June, 1992, we are proceeding to dispose it of after hearing Shri Bhandari and perusing the material on records.

5. Shri Bhandari has taken various grounds in the O.A., the more important of which is that neither the Disciplinary Authority's orders nor that of the Appellate Authority are reasoned and speaking orders and also that a copy of the Enquiry Officer's report was not supplied to the applicant before the Disciplinary Authority

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issued the impugned order. In this connection, he has invited our particular attention the applicant's representation dated 19.2.90 (Ann. A-2) addressed to the respondents, complaining that the copy of the E.O's report had not been supplied to him along with copy of the punishment order which is violative of Rule 12 Railway Servants (Discipline & Appeal) Rules, 1968.

6. A perusal of the impugned Disciplinary Authority's order dated 21.12.89 as well as the Appellate Authority's order dated 14/18.11.91 makes it clear that these are bald and cryptic orders and do not discuss the basis on which the Disciplinary Authority and the Appellate Authority came to their conclusion. The appellate Authority in his impugned order dated 14/18.11.91 refers to applicant's appeal dated 11.6.91 but that is only the last in a series of reminders. Applicant's appeal is actually dated 19.2.90 (Ann. A-2) in which he has taken the ground of non-supply of a copy of the E.O's report along with the penalty order, but this point has not even been touched upon by the appellate authority in his order dated 14/18.11.91.

7. In this connection Shri Bhandari has invited our attention to the Railway Board's own letter dated 3.3.78 (copy taken on record), which makes it clear that the Disciplinary Authority should invariably pass speaking orders indicating

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the reasons for the conclusion arrived at. The same procedure should also be followed by the appellate authority. It is emphasised that the Disciplinary Authority imposing a penalty must apply its mind to the facts, circumstances and record of the case and then record its findings on each imputation of misconduct and misbehaviour give brief reasons for its findings so as to show that it has applied its mind in the case. The reasons recorded by the Disciplinary Authority should be comprehensive enough to give a chance to the delinquent Railway Servant to explain his case in his appeal. All the points raised by the delinquent Railway servant in his defence/appeal must be considered and it should be recorded by the Disciplinary Authority/Appellate Authority as to why the said points are not tenable.

8. In the light of the above, we are of the considered view that the Disciplinary Authority's order and Appellate Authority's order both of which are impugned, are bald and cryptic, and do not conform to the legal requirements laid down in Railway Board's Own letter dated 3.3.78. Therefore, these orders are quashed and set aside.

9. In this connection, we are informed that applicant has retired from service on 28.2.94 and in the circumstances we do not consider it

necessary to remit the case back to the respondents for passing any fresh orders in this regard.

10. The O.A. therefore, succeeds and is allowed. No costs.

Lakshmi Swaminathan
(Mrs. LAKSHMI SWAMINATHAN)

MEMBER (J)

Subbaramaniam
(S.R. ADIGE)
VICE CHAIRMAN (A)

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