

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.814/92

DATE OF DECISION: 2.12.92.

SHRI.G.S.RAWAT

.. APPLICANT.

VERSUS

UNION OF INDIA & OTHERS

.. RESPONDENTS.

Sh.B.S.Mainee

.. Counsel for the applicant.

Sh.Rajinder Singhvi

.. Counsel for the respondents.

CORAM:

The Hon'ble Sh.Justice Ram Pal Singh, Vice Chairman(J).

The Hon'ble Sh.I.P.Gupta, Member(A).

J U D G E M E N T (O R A L)

The applicant on the relevant date was working as Parcel Clerk under the Station Superintendent, Northern Railway, Delhi. While so working he was served with a chargesheet for minor penalty on 13.11.90 with the allegation that the consignment on 8.4.1988 from Delhi to Modi Nagar was made over to the applicant for loading in 376 DN, but the loading records of 376 DN dated 8.4.88 show that 87 packages were loaded for which signatures of the guard were obtained and three packages for GJL seem to have been added later on, which is a serious default on the part of the applicant while performing the duty. The applicant submitted his defence which is Annexure A-3 and the impugned order of punishment was passed. Impugned order Annexure A-1 was passed against the applicant for imposing upon him the penalty for recovery of Rs.16,900/- for the loss caused due to the negligence of the applicant.

2. The applicant submitted an appeal to the appellate authority and according to him, has stated in the O.A. that he was never communicated with the orders passed by the appellate

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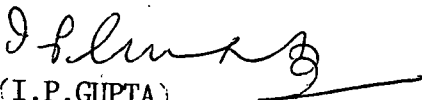
authority. In reply to this contention in counter, the respondents have stated at para 4.10 that the appeal was received in the office but the defence of the applicant was not found satisfactory by the concerned authority. In para 4.11 they have contended that the appeal of the applicant was rejected by the appellate authority. To substantiate this stand respondents have not filed along with their counter, any document showing that their stand is corroborated by documentary evidence. They have also not produced any appellate order which may show that the appellate order was passed by the appellate authority, while rejecting the appeal, after the application of mind. The respondents, in their counter, at para 5.4 have also contended that the case was re-examined and a fresh enquiry and a report was submitted. This stand of the respondents was also not substantiated by them with any documentary evidence. Bald statement on the part of the respondents persuade us to disbelieve their stand. Thus we have to conclude that neither an appellate order was passed by the respondents nor the enquiry was conducted in a proper way because the stand of the applicant is that the impugned order, imposing the penalty is bereft of any reasoning. Sh.B.S.Maine has also contended that the impugned order shows non-application of the mind by the disciplinary authority while imposing the penalty. It is also evident that the defence submitted by the applicant in Annexure A-3 was also not considered. In this view of the matter the impugned order, imposing the penalty also cannot be sustained. We, therefore, quash the impugned order and also invisible appellate order and set aside the penalty imposed upon the applicant. However, we make it clear that this judgement shall not preclude the disciplinary authority from proceeding with the enquiry accord-

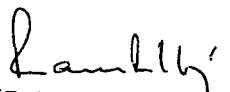
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ing to law. If any recovery, in pursuance of the impugned order, is made then it should be immediately be refunded to the applicant. With this direction this O.A. is finally disposed of with no order as to costs.


(I.P. GUPTA)
MEMBER (A)


(RAM PAL SINGH)
VICE CHAIRMAN (J)