

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

6

O.A. 890/92

Date of decision:

10/12/92

Sh.Krishan Lal

.. Applicant.

Versus

Union of India

.. Respondents

Sh.K.B.S.Rajan

.. Counsel for the applicant.

Sh.Sharad Trivedi

.. Counsel for the respondents.

CORAM:

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

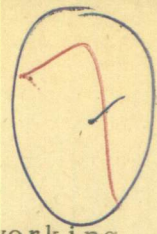
The Hon'ble Sh.I.P.Gupta, Member(A).

J U D G E M E N T (ORAL)

Both the counsels are finally heard. This case was expedited by the orders of the Hon'ble Chairman for early hearing.

2. The applicant was an employee of the Railway Department. In the year 1955 he entered this service. In the year 1977 he was suspended because a departmental enquiry was contemplated against him. The allegations against him were that he attempted to assault one K.Ramachandra Pillai and Ram Lubhaya. Hence, two articles of charges were framed against him. During the enquiry the original records of the enquiry are said to have been lost. Thereafter fresh chargesheet was served upon the applicant and impugned order (Annexure A-3) dated 28.8.84 was passed by the disciplinary authority and the penalty of removal from service was imposed upon him. Aggrieved by this impugned order the applicant filed an appeal before the appellate authority. The Appellate Authority, by an order dated 21.1.85, passed the orders in Annexure A-2. In this order the appellate authority mentioned that it has found out the old relevant particulars/records and that the case of the applicant was beyond reformation. He has also taken into

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consideration the reports of indifferent working on the part of the applicant. He has also referred to numerous cases. In the concluding para the appellate authority has mentioned that keeping all these facts in view he was of the view that the appeal deserves rejection. He, therefore, dismissed the appeal filed by the applicant. The applicant subsequently filed a review petition before the C.W.N. Northern Railway who had conveyed that the revision application, filed by the applicant was rejected. The revisional order shows that the grounds mentioned by the appellate authority were not considered by the revisional authority. When the appellate order itself is based upon extraneous evidence and the matter for deciding the culpability of the applicant in the alleged incident, then both these orders cannot be maintained in law. The appellate authority has miserably failed to appreciate that any extraneous matters cannot be taken into consideration in deciding an appeal, which were not produced by way of evidence during the disciplinary enquiry. Thus this appellate authority's order, we are of the view, cannot be maintained. In consequence of the revision order annexure A-1 can also be not maintained. The applicant has suffered prejudice due to these two illegal orders. We, therefore, quash these two orders.

3. The learned counsel for the applicant and also the ld. counsel for the respondents were unable to produce the grounds of appeal filed by the applicant before the appellate authority. The grounds of appeal are also not in the records of the O.A. We are,

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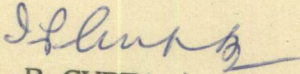
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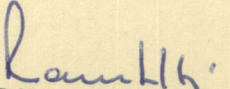
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therefore, unable to know the grounds which were raised before the appellate authority. We, therefore, quash annexure A-2 dated 21.1.85 and the revision order dated 26.4.91. The applicant may file fresh appeal within a period of 15 days from the date of receipt of a copy of this judgement before the appellate authority taking the grounds of appeal clearly in that memorandum. Any delay caused in filing this appeal stands condoned by this judgement.

4. The appellate authority shall, within a period of two months from the date of receipt of the appeal, shall decide the appeal after affording an opportunity to the applicant of being heard.

5. The applicant may prefer review/revision, if any, if he is aggrieved by that appellate order and the revisional/reviewing authority shall decide it within a period of two months from the date of the filing of the review. While parting we direct that the applicant shall be at liberty to raise all these points in the fresh O.A. which have been raised in this O.A., if he is still aggrieved by the appellate or reviewing orders. There shall be no order as to costs.


(I.P.GUPTA)
MEMBER(A)


(RAM PAL SINGH)
VICE CHAIRMAN(J)