

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

10

O.A./T.M. NO. 2610 /19 93 Decided on : 12.11.96

Shri Bakhtiar Hussain

... Applicant(s)

(By Shri

BS. Mainee

Advocate)

versus

Union of India & Others

... Respondent(s)

(By

Shri Shri K.K. Patel

Advocate)

CORAM

THE HON'BLE SHRI JUSTICE CHETTUR SANKARAN NAIR THE HON'
THE HON'BLE SHRI S.P. BISWAS, MEMBER(A) CHAIRMAN

1. To be referred to the Reporter or not ? Yes
2. Whether to be circulated to other Benches
of the Tribunal ?

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.2610/93

Tuesday this the 12th day of November, 1996,

CORAM

HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, CHAIRMAN

HON'BLE MR. S.P. BISWAS, ADMINISTRATIVE MEMBER

Shri Bakhtiar Hussain,
Ex-Substitute Loco Cleaner under
Locoforeman, Northern Railway,
Lakshar.

...Applicant

(By Advocate Mr. B.S.Maine)

Vs.

1. Union of India through:

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

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

.. Respondents

(By Advocate Mr. K.K. Patel)

The application having been heard on 12.11.1996, the Tribunal on the same day delivered the following:

O R D E R

CHETTUR SANKARAN NAIR(J), CHAIRMAN

Applicant challenges A-1 order of the disciplinary authority affirmed in appeal by A2. The matter came up before this Tribunal earlier in O.A.1126/92, and it was observed:

"We quash A2 and direct the Appellate Authority to decide the appeal by a speaking order and after giving an opportunity to the applicant..."

Instead of passing a speaking order, a cryptic order A2, was issued by an unknown entity on behalf of the Divisional Railway Manager, in turn on behalf of the Senior Divisional Mechanical Engineer. It reads:

"after going through the entire case I am satisfied that it has been dealt as per the rules and no stage the natural justice has been denied to C.O. I also conclude that the punishment imposed is adequate."

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It is very difficult to term this a speaking order by even the most liberal of standards. Reason is an attribute of judicial and quasi judicial process and reason is the only sine quo non of application of mind. Dealing with a similar case of the Railways and dealing with a similar cryptic order the Apex Court stated: (Ram Chander Vs. Union of India and others, AIR 1986 SC 1173):

"To say the least, this is just a mechanical reproduction of the phraseology of R.22(2) of the Railway Servants Rules without any attempt on the part of the Railway Board either to marshall the evidence on record with a view to decide whether the findings arrived at by the disciplinary authority could be sustained or not. There is no indication that the Railway Board applied its mind as to whether the act of misconduct with which the appellant was charged together with the attendant circumstances and the past record of the appellant were such that he should have been visited with the penalty..."

The order in question is an order which anyone could have passed without even touching the files, with his hand. In the instant case, there is not even a statement by the appellate authority in the reply statement, that he had read through the files and reached the conclusion conveyed in A2. We cannot leave the fortunes or livelihood of citizens to the unguided discretion of authorities. The rule of law postulates reasons for quasi judicial orders. To recapitulate the words of the xxxxxxxxxxxxxxxx Constitution Bench in S.G.Jaisinghani's case, AIR 1967 SC 1427:

"rule of law means that decisions should be made by application of known principles and rules and such decisions should be predictable and the citizen should

contd...

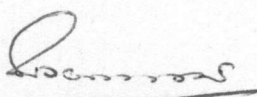
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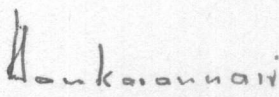
know where he is. If a decision is taken without any principle or without any rule it is unpredictable and such a decision is the antithesis of a decision taken in accordance with the rule of law. Law has reached its finest moments, when it has freed man from the unlimited discretion of some ruler."

The cryptic order of the appellate authority proceeds not on reason, not on facts, not on predictable principles, but on undisclosed undisguised discretion of the appellate authority. Such an order cannot be upheld.

2. We quash the impugned orders (A-1 and A2) and allow the Original Application with costs which we fix at Rs.1000/- (Rupees one thousand).

Dated the 12th November, 1996.


S.P. BISWAS
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR(J)
CHAIRMAN

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