

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No.1198 of 1996

Friday, this the 14th day of May, 2004.

Hon'ble Maj. Gen. K.K.Srivastava, A.M.
Hon'ble Mr. A.K. Bhatnagar, J.M.

Sudhir Kumar Sohane,
aged about 26 years,
Son of Shri Durga Prasad Sohane,
resident of Purani Bazar,
Karbi District Banda,
presently posted as Station
Master, Railway Station Khoh
District Banda.

.....Applicant.

(By Advocate : Shri R.K. Pandey)

Versus

1. Union of India,
through the General Manager,
Central Railway, Jhansi.
2. Divisional Operating Manager (C.R.)
Jhansi.
3. Senior Divisional Operating Manager,
C.R. Jhansi.
4. Divisional Railway Manager (Traffic)
Central Railway, Jhansi.

..... Respondents.

(By Advocate : Shri P. Mathur)

ORDER

By Hon'ble Maj. Gen. K.K.Srivastava, A.M. :

In this OA, filed under Section 19 of A.T. Act, 1985,
the applicant has prayed for quashing the impugned punishment
order dated 5.1.1995, (Annexure-A-1), Appellate order dated
14.6.1996 (Annexure-A-2) and order dated 16.8.1996

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(Annexure-A-3) passed by the Revisionary Authority.

2. The facts as brought out by the applicant are that he was appointed as Assistant Station Master on 23.3.1992. Thereafter, he was posted as Station Master at Kheh Railway Station by order dated 16.3.1993. He was served with a charge sheet dated 6.1.1995 and after completion of inquiry proceedings the impugned punishment order dated 5.1.1996 was passed. The order of punishment was challenged by filing an appeal before Appellate Authority but rejected the same by impugned order dated 14.6.1996. Thereafter the applicant filed appeal before the Revisionary Authority which has also been rejected by impugned order dated 16.8.1996, hence this O.A.

3. Heard the counsel for the parties, considered their submissions and perused the records.

4. Learned counsel for the applicant submitted that the impugned orders of the Appellate Authority and the Revisionary Authority are cryptic and they can not be sustained in the eyes of law.

5. Learned counsel for the respondents relying upon the judgment of Hon'ble Supreme Court in the case of G.M. (Personnel Wing), Canara Bank Vs. Sri M. Raja Rao 2003 (1) SC Services Law Judgments 489 has held that when disciplinary authority agrees with the findings of the Enquiry Officer, it is not necessary for Disciplinary Authority to give any detailed reasons showing his intention to agree with the findings of the Enquiry Officer.

We have perused the judgment of the Hon'ble Supreme Court in the case of Shri M. Raja Rao (supra). The Hon'ble Supreme Court in regard to the order of the Appellate Authority observed as under :-

"So far as the order of the Appellate Authority is concerned, it is undoubtedly true that as provided in the regulation, the Appellate Authority is required to pass a reasoned order. The question further arises for consideration is even though the order may be a reasoned order, can it be held to have suffered from any infirmity because all the contentions raised as alleged by the counsel for the delinquent, have not been dealt with."

Answering the above question the Hon'ble Supreme Court allowed the appeal holding that the order of the Appellate Authority was reasoned and it was not necessary to cover each and every point raised by appellant.

Perusal of the above leaves no doubt in our mind that the order passed by Appellate Authority has to be reasoned and it is not necessary for the Appellate Authority to cover each and every point raised by the appellant.

6. The appellate order dated 14.6.1996 and 16.8.1996 reads as under :-

14.6.1996

" There is no new fact point in the appeal punishment imposed for such gross misconduct is adequate. I see no reason to reduce the punishment it stand good."

16.8.1996

" मैं प्राची की अपील और अन्य तथ्यों की जानकारी के आधार पर प्राची की अपील रिजेक्ट करता हूँ।"

From no stretch of imagination, the above order can be termed as reasoned. There is no doubt that the above orders are cryptic and liable to be quashed. As regards remitting the matter to the Appellate Authority Shri

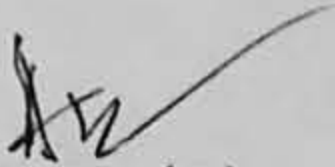
P. Mathur, learned counsel for the respondents produced before us termite-eaten records. He submitted that in view of the present state of records, it will not be possible for the Appellate Authority to decide the appeal of the applicant. On perusal of the record produced before us, we find that they have been so badly damaged by termites that the records will be of no use whatsoever to the Appellate Authority. Therefore, in the interest of justice, we consider it appropriate to direct the applicant to file a fresh appeal alongwith documents available with him before the Appellate Authority who should decide the same by a reasoned order keeping in view the pleadings which are available on record in this case as well as if some other relevant records are available with the respondents.


7. In view of the above, we quash the Appellate order dated 14.6.1996 (Annexure-A-2) and the Revisionary Authority order dated 16.8.1996 (Annexure-A-3). The matter is remitted to the Appellate Authority i.e. respondent No.3. The applicant is directed to file his appeal alongwith the order of this Tribunal within a period of four weeks from the date of receipt of the copy of this order, annexing therewith the records available with him and the appellate authority is directed to decide the appeal, if so received, within a period of three months from the date of receipt of the representation by a reasoned order on the basis of the documents/pleadings of this case as well as the relevant records if available with the respondents as already observed in para 6 (supra). We also direct that before deciding the appeal, the Appellate Authority shall

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give opportunity of hearing to the applicant. In the changed scenario when the new Railway Zones have been formed, the appeal shall be filed before Senior D.O.M., North Central Railway, Jhansi who is the Competent Authority to decide the appeal of the applicant.

8. With the above direction, the OA is disposed of with no order as to costs.


MEMBER (J)


MEMBER (A)

RKM