

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Dated : This the 25th day of October 2002.

Original Application no. 16 of 1996.

Hon'ble Mr. Sarveswar Jha, Member (A)  
Hon'ble Mr. A.K. Bhatnagar, Member (J)

I.S. Ravi, S/o Shri Harkesh Singh,  
R/o H-320/A, Railway Harthala Colony,  
Moradabad (U.P.).

... Applicant

By Adv : Shri Rakesh Verma

Versus

1. Union of India through the Chairman,  
Railway Board, Rail Bhawan,  
NEW DELHI.
2. The Divisional Commercial Manager,  
Northern Railway,  
MORADABAD.
3. The Senior Divisional Commercial Manager,  
Northern Railway,  
MORADABAD.
4. The Divisional Railway Manager,  
Northern Railway,  
MORADABAD.

.... Respondents

By Adv : Shri V.K. Goel

ORDER

Hon'ble Mr. S. Jha, Member (A).

The applicant has approached this Tribunal through this O.A. with prayers for quashing the orders dated July, 1993, imposing penalty of reduction to a lower stage in the same

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*Sanjay Kumar*

time scale of pay from Rs. 1600 to Rs. 1480/- in the pay scale of Rs. 1450-2300 for five years without postponing future increments, appellate order dated 03.11.1993 passed by the respondent no. 3, rejecting the appeal of the applicant and order dated 24.07.1995, passed by respondent no. 4 rejecting the review petition preferred by the applicant. He has also prayed that direction be issued to respondent no. 2 to restore the applicant at his original pay with arrears thereof.

2. Learned counsel for the applicant has submitted that the Disciplinary Authority has not followed the procedure for imposing minor penalties as provided for under rule 11 of the Railway Servant (Discipline and Appeal) Rules, 1968. On closer reading of the procedure provided under the said rule it is observed that there are five sub-clauses of the said rule and the applicant has found fault with the Disciplinary Authority having not followed all of them individually. Learned counsel for the applicant has also contended that, while giving the orders, the Disciplinary Authority should have also taken care of making mentions of the relevant portions of this rule. He has further contended that the Appellate Authority has also not followed the procedure as prescribed for the Appellate Authority in Rule 22 of the said rules. This rule gives definite guidelines which the Appellate Authority shall consider while considering appeal and giving his orders. His submission is that the Appellate Authority while issuing said cryptic order (Annexure A2 to the OA) has not cared to keep in view the detailed provisions of these rules. He has also not referred to these aspects while giving his reply and orders after considering the appeal of the applicant. The learned counsel for the applicant has contended that while the orders of the respondents are fit

to be quashed as prayed for in the relief portion of the O.A. on the ground of relevant provisions of the said rules having not been followed by them alone, he has also contended that the various charges that have been made by the respondents against the applicant have not been referred to even by the Disciplinary Authority while giving the orders vide annexure A1. To that ~~extent~~, he has submitted, that the orders of the Disciplinary Authority are non-speaking and as such cryptic. He has further submitted that the applicant had submitted a Review Application before the competent authority, vide annexure A10, which was considered and disposed of by the said authority vide annexure A3. It has been observed that even orders of the Reviewing Authority placed at annexure A3 is thoroughly cryptic and does not throw any light on the various articles of charges and Statement of Imputation of Misconduct. He has also contended that the Inquiry Officer, in his report, placed at Annexure A7, has also contended that while the charge that the applicant booked berth fallen vacant in an area beyond his beat (jurisdiction), whether this act of his affected the R.A.C. and Wait listed passengers subsequently at the following stations could not be proved. That being the case, the contention of the learned counsel for the applicant is that it was not appropriate on the part of the Disciplinary Authority to have held him guilty for the charges levelled against him as per articles of charge and Statement of Imputation of Misconduct. He further proceeded to say that the circular of the Railway Board issued on 14.4.1983, which has been made the basis for holding a view that the applicant was not competent to book berth falling vacant out of his beat area, was not made available to him, though a photo copy of the same appears to have been made available by the respondents to him. On the basis of the above submissions, the

learned counsel for the applicant further made a plea that the impugned orders of the respondents at Annexures A1, A2 & A3 be, therefore, quashed and the original pay of the applicant be restored with consequential benefits.

3. Learned counsel for the respondents in his submission mentioned that going into merit of the decision of the Appellate Authority is not within the jurisdiction of this Tribunal. He also submitted that the appellate authority is required to refer to two aspects, namely, (i) whether appropriate/adequate opportunity has been afforded to the applicant to submit his case and (ii) whether the order of the Disciplinary Authority has been given correctly. As the question of adequate opportunity having not been given to the applicant had not been raised by the applicant in his appeal, this aspect was not referred to in the reply of the Appellate Authority. As regards whether the decision of the Disciplinary Authority has been given correctly, there is no reference to the same in the orders of the Appellate Authority. Therefore, even on the premise that was built by the respondents, this requirement does not seem to have been fulfilled by the Appellate Authority while issuing his orders. The learned counsel for the respondents, however, mentioned that an authentic copy of the circular of the Railway Board dated 14.4.1983 had been made available to the applicant during the course of inquiry and, therefore, it is not correct on the part of the applicant to say that an authentic copy of the Railway Board Circular was never made available to him. He also contended in this regard that the applicant was supposed to have known the orders of the Railway Board contained in their circular dated 14.4.1983 and, therefore, his insistence on having an authentic copy of the said circular to be able to submit his position in that regard was not correct.

4. After considering the submissions of both the sides and after going through the detailed provisions of the relevant rules, particularly Rule 11 and Rule 22 of the Railway Servant (Discipline and Appeal) Rules, 1968 and after going through the contents of Articles of Charges and Statement of Imputation of Misconduct as well as the orders passed by the Disciplinary Authority, Appellate Authority and Reviewing Authority, we are inclined to observe that the said authorities have not strictly followed the procedure<sup>4</sup> as prescribed in the said rules. They have also not issued speaking orders with regard to the provisions of the said rules and, as a result, their orders are cryptic. In view of this, we are of the view that their orders at annexure A1, A2 & A3 are fit to be quashed and the applicant is entitled to get his original pay of Rs. 1600/- in the pay scale of Rs. 1450-2300 restored, as prayed for. With this, the three impugned orders, as mentioned above, stand set aside and the pay of the applicant is restored to its original position at Rs. 1600/- as in July, 1993 as prayed for. The respondents are, therefore, directed to comply with the said order within a period of 2 months from the date of communication of this order. With this the O.A. stands disposed of with no order as to costs.

  
Member-J

  
Member-A

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