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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 29TH DAY OF MAY, 2002

Original Application No. 116 of 1997

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.DAYAL, MEMBER(A)

Bahadur Singh, son of Shri Jaswant Singh, resident of village Sultanpur Post Khurja Junction, district Bulandshahar.

... Applicant

(By Adv: Shri A.S.Diwakar)

Versus

1. Union of India through the Secretary Ministry of Railways, Secretariat, New Delhi.
2. Assistant Engineer, Northern Railway, Aligarh.
3. Divisional Superintending Engineer IV, Northern Railway, Allahabad.

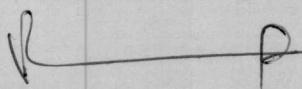
... Respondents

(By Adv: Shri A.Tripathi)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985 applicant has challenged the order dated 26.12.1995 by which applicant has been awarded punishment of removal from service on conclusion of the disciplinary proceedings. The appeal filed by applicant was dismissed by Appellate Authority vide order dated 5.2.1997 which has also been challenged. The counsel for applicant has submitted that the appellate order is very short, cryptic and does not deal with the material aspects of the case. The points raised by the applicant in the memo of appeal have not been considered and as such the order is violative of principles of natural justice and is liable



to be quashed on this ground.

Shri Avnish Tripathi, counsel for the respondents, on the other hand, submitted that the order of Appellate Authority is not required to be very detailed order as he has only ~~convinced~~ ^{concurred} with the view expressed by the Disciplinary Authority and the order does not suffer from any error.

We have considered the submissions of the counsel for the parties. Hon'ble Supreme Court in case of 'Ram Chander Vs. Union of India and Others', AIR 1986 Supreme Court 1173, has considered duties of the Appellate Authority in departmental proceedings and held in para 24 of the judgement as under:

".....Such being the legal position, it is of utmost importance After the Forty-Second Amendment as interpreted by the Majority in Tulsi Ram Patel's case that the Appellate Authority must not only give a hearing to the Government servant concerned but also pass a reasoned order dealing with the contentions raised by him in the appeal.

We wish to emphasize that reasoned decisions by tribunals, such as the Railway Board in the present case, will promote public confidence in the administrative process.

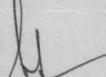
An objective consideration is possible only if the delinquent servant is heard and given a chance to satisfy the Authority regarding the final orders that may be passed on his appeal. Considerations of fair play and justice also require that such a personal hearing should be given...."

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As the Appellate Authority has not considered the material aspects of the case and the points raised by applicant in his memo of appeal the order suffer from manifest error of law and the judgment of Hon'ble Supreme court is squarely applicable. The applicant is entitled for relief.

The OA is allowed in part. The order of the Appellate Authority dated 5.2.1997(Annexure 2 to the CA) is quashed. The appeal of the applicant shall stand restored before the Appellate Authority and shall be considered and decided in the light of the observations made above. As the appeal is old, the Appellate Authority shall decide the same within three months from the date a copy of this order is filed. There will be no order as to costs.



MEMBER(A)



VICE CHAIRMAN

Dated: 29th May, 2002

Uv/