

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

C.C.A./Review/M.A. No.

In

O.A.No./T.A.No. 1174 of 1997.

Date of decision 27/05/2002

Isha Mohammad

Applicant(s)

Sri VK Srivastava.

Counsel for the  
Applicant(s)

Versus

UOI &Ors

Respondent/Upp.  
Party

Sri KP Singh,

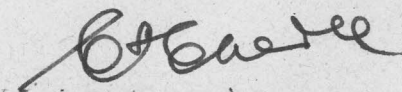
Counsel for the  
Respondents/Upp.  
Party

CURAM

Hon'ble Mr. CS Chadha, AM V. 2/Member ( )

Hon'ble Mr. AK Bhatnagar, J.M. Member ( )

1. whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. whether their Lordship wise to see the fair copy of the judgment?
4. whether to be circulated to all Benches ?

  
( Signature )

/M.M./

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 27th day of May, 2002.

Original Application No.1174 of 1997.

CORAM:-

Hon'ble Mr. C.S. Chadha, A.M.

Hon'ble Mr. AK Bhatnagar, J.M.

Isha Mohammad S/o Late Gulzar,  
Resident of Sirishian Baker Tola,  
Shashamuso, district Gopalganj,  
Bihar.

(Sri VK Srivastava, Advocate)

. . . . .Applicant

Versus

1. Union of India through its  
General Manager, North Eastern Railway,  
Gorakhpur,
2. Divisional Rail Manager, North Eastern  
Railway, Varanasi.
3. Senior Divisional Engineer, North  
Eastern Railway, Varanasi.

(Sri KP Singh, Advocate)

. . . . .Respondents

ORDER

By Hon'ble Mr. C.S. Chadha, A.M.

This OA has been filed challenging the validity of the punishment order, allegedly of 29-9-1994 by which the applicant's pay was reduced from Rs.1140/- p.m. to Rs.825/- per month. It had been further claimed that the said order had not been given effect to and for the first time on 28-9-1996 he was informed that the non-implementation of the said order had led to an overpayment of Rs.16,895.40 to him by way of wages etc. which would be deducted from his pay or retiral benefits. This



recovery order has also been challenged on the ground that recoveries could not have been made without giving the applicant due opportunity to be heard.

2. The brief facts of the case are that the applicant was working as a Keyman when he was issued a minor penalty charge sheet on 24-9-93 (Annexure-1 to the CA), he gave his reply on 30-9-93 (Annexure-2 to the CA), and according to the applicant he heard nothing further in the matter till 28-9-96, just before his retirement on 30-11-1996, that he had been awarded a punishment by reducing his salary from Rs.1140/- p.m. to Rs.825/- p.m., on 29-9-1994. The applicant claims no knowledge of such an order. Be that as it may, the order was also not implemented till Sept. 96, i.e. for nearly two years when the respondents discovered their mistake and ordered recovery from the applicant's retiral benefits without giving him any show cause notice as to why the said over-payment should not be recovered.

3. We are amazed to see that in their CA the respondents have averred that a minor penalty show cause notice was issued to the applicant vide Ann-CA-1, whereas the said notice does not mention any proposed penalty but only outlines the misdemeanour of the applicant. On Annexure-CA-2 which is the reply of the applicant a cryptic order by the Assistant Engineer merely mentions that the applicant's pay is fixed at the minimum of the scale of Rs.825/- without assigning any reason whatsoever why he thought the said punishment was necessary. The disciplinary authority has to pass a reasoned speaking order why the explanation rendered by the delinquent official is not considered to be satisfactory. We find no such reasoning recorded and would like to mention that the said disciplinary authority must himself be punished for this casual

*B. B. S. S.*

approach to someone else's career. Moreover, reduction to the bottom of the time scale was to have cumulative or non-cumulative effect was also not mentioned. Further it appears to be a major punishment as the reduction in pay was by several steps in one go. We, therefore, find that the said punishment order was grossly illegal & cannot be sustained. Further there are doubts about the authenticity of these orders and their applicability as they were never communicated to the applicant in writing and perhaps due to the doubt about the cumulativeness or otherwise about the punishment, the same were not even implemented for 2 years. We, therefore, quash the said punishment orders.

4. Even if, for argument's sake, it is conceded that the punishment was rightfully imposed, the alleged overpayment cannot be recovered from the retiral benefits of the applicant without giving him any opportunity to be heard, to prove that no overpayment was made to him. The order dated 28-9-1996 ordering recovery from his retiral benefits is grossly illegal because firstly he was never informed in writing about the alleged punishment order dated 29-9-1994 and secondly because the said overpayment was sought to be recovered, by a unilateral decision, from his retiral benefits, without giving him any opportunity to be heard.


5. We are, therefore, convinced that the entire action of the respondents in first punishing the applicant by a non-speaking and incomplete order, which was not even communicated to him, and then recovering the allegedly excess payment made to him without giving him any show cause notice <sup>or from his retiral benefits or</sup> (after sleeping over the matter for two years) is grossly illegal and cannot be sustained. The OA is, therefore, allowed, the alleged

*B. C. Chaudhary*

orders of punishment dated 29-9-1994 are quashed and the recovery made from the retiral benefits is also quashed. It is not clear from the documents before us whether the recovery was for Rs.16,895/- or for Rs.21,895/- as differently mentioned at different places. In the circumstances, we also give a direction to the respondents to refund the entire amount of recovery made from the applicant to him with interest at 12% per annum since the date the said amount was wrongly retained by the respondents.

6. The applicant is also awarded Rs.2000/- as costs for this unnecessary harassment.

  
Member (J)

  
Member (A)

Dube/