

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 17th day of May, 2004.

Original Application No. 1405 of 1997.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman.

Hon'ble Mr. S.K. Hajra, Member- A.

Brijesh Kumar S/o Late Sri Kunwar Prasad Chaudhary
working as Sr. Clerk under Loco Foreman, Northern Railway,
Chunar. R/o Rly., Quarter No. 71 B, Railway Colony, Chunar.

.....Applicant

Counsel for the applicant :- Sri C.P. Gupta

V E R S U S

1. Union of India through General Manager,
Northern Railway, Baroda House, New Delhi.
2. Addl. Divisional Railway Manager,
Northern Railway, Allahabad.
3. Sr. Divisional Mechanical Engineer,
Northern Railway, Allahabad.
4. Divisional Mechanical Engineer, Northern Railway,
Allahabad.

.....Respondents

Counsel for the respondents :- Sri G.P. Agarwal

O R D E R

By Hon'ble Mr. Justice S.R. Singh, VC.

By order dated 31.01.1996 the applicant was reduced from stage of Rs. 1380/- to the stage of Rs. 1320/- in the pay scale of Rs. 1200-2040 for a period of one year from the date of the order with cumulative effect. Aggrieved against the said order applicant preferred an appeal vide memo dated 20.04.1996 (Annexure- 10) alleging procedural irregularities committed by the enquiry officer and other irregularities.

Ref

The appellate authority dismissed the appeal in terms of the following order :-

"I have gone through the appeal in detail. No new fact has been brought out in the appeal. I thus confirm the penalty being imposed by disciplinary authority."

The order aforesaid was communicated to the applicant vide letter dated 20.09.1996. Both these orders are subject matter of challenge in this O.A.

2. Having heard counsel for the parties we are of the considered view that the appellate order is not in conformity of rule 22 (2) of Railway Servants (Discipline and Appeal) Rules, 1968 which enjoined a mandatory duty on the Appellate Authority to "consider", whether the procedure laid down in the rules has been complied with, and if not, whether such non compliance has resulted in violation of any provision of the Constitution of India or in the failure of justice; whether the findings of the disciplinary authority are warranted by the evidence on record; and whether the penalty imposed is adequate, inadequate or severe, and then pass the orders confirming, enhancing, reducing or setting aside the penalty or remitting the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case..The appeal, it may be observed, is not an empty formality. The appellate authority is bound to give answer to the questions raised by the applicant in his memo of appeal. As stated herein above various points have been raised by the applicant in his memo of appeal challenging the illegality and impropriety of the order of punishment imposed by the disciplinary authority but the Appellate Authority dismissed the appeal by a mechanical order without proper self direction to the points raised by the applicant in his memo of appeal. The order of Appellate Authority is, therefore, not sustainable.

20/10

3. In the facts and circumstances, it is not necessary for us to go into the illegality or otherwise to the order passed by the Appellate Authority. The O.A succeeds in part. The order of Appellate Authority is quashed. The appellate authority is directed to decide the appeal of the applicant by means of reasoned order within a period of four months from the date of communication of this order.

4. There will be no order as to costs.

Sammy K. H. H.
Member- A.

RGJ
Vice-Chairman.

/Anand/