

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 27th day of November 2002.

QUORUM : HON. MR.S. DAYAL, A.M.
HON. MR. A.K. BHATNAGAR, J.M.

O.A. No. 1465 of 1997

Nand Kumar Saxena, Electrical Khalasi, attached with Electrical
Forman, posted at N.E. Railway, Chhapra R/O C-7/127, Senpura,
City Varanasi.....

..... Applicant.

Counsel for applicant : Sri A.N. Singh.

Versus

1. Divisional Railway Manager (Personnel), N.E. Railway, Varanasi
2. Divisional Railway Manager (Electrical), N.E., Rly., Varanasi.
3. Additional Divisional Manager, N.E. Railway, Varanasi.
4. Senior Divisional Electrical Engineer, N.E. Rly., Varanasi.
5. Assistant Electrical Engineer, N.E. Railway, Varanasi.
6. Union of India, Divisional Manager, N.E.R., Gorakhpur.

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..... Respondents.

Counsel for respondents : Sri K.P. Singh.

O R D E R

BY HON. MR. S. DAYAL, A.M.

This application has been filed for setting aside
the impugned order dated 5.6.97, 16/17.4.97 and 28.2.97/3.3.97.

2. We have heard the arguments of Sri Anil Kumar, B.H.
of Sri A.N. Singh for applicant and Sri K.P. Singh for respon-
dents.

3. By order dated 28.2.97/3.3.97, the applicant has
been found guilty of charges levied against him and a cyclosty-
led order to the address of the applicant has been posted. The
Appellate authority by order dated 16/17.4.97 has confirmed
the order and the Revisional authority has mentioned that the
applicant was irregular and was not trust worthy so far as
his defence was concerned. Therefore, the punishment imposed
has been reconfirmed.

4. We find in this case that the applicant was given a charge-sheet dated 7.2.97 charging him with unauthorised absence without prior information from 12.10.96 to 22.1.97. The applicant replied on 26.2.97 stating that he had received the memorandum of charges on 24.2.97 and that he had sent intimation regarding his illness on 28.10.96 by U.P.C. The applicant has claimed that order of punishment has been passed without waiting for his reply and without conducting disciplinary proceedings as per the provisions of Railway Servants (Discipline & Appeal) Rules 1968.

5. The claim of the applicant appears to be proper because the applicant was given the Memorandum of Charges by post to his permanent residential address of his home town and a letter dated 7.2.97 ^{which} could have taken time to reach the applicant. He has claimed that he received a copy on 24.2.97 ^{two} and should have been considered. We find that the Disciplinary authority passed order dated 28.2.97 which means that proper disciplinary proceedings were neither initiated nor conducted against the applicant by appointment of Enquiry Officer and setting dates for hearing of the applicant who was the charged employee in the case.

6. We could have hoped that the Appellate authority would have ^{considered} these facts but the Appellate authority has passed an order which is completely non-speaking and which does not discharge the responsibilities placed upon the Appellate authority by Rule 22 of Railway Servants (Discipline & Appeal) Rules 1968.

7. In the above circumstances, we are left with no alternative to set aside the order of Disciplinary authority, Appellate authority and the Revisionary authority with the liberty to the disciplinary authority to proceed against the applicant as per law. The applicant shall be re-instated with all consequential benefits.

J.M.

There shall be no order as to costs.

A.M.