

Open Court.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
ALLAHABAD BENCH, ALLAHABAD.

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Original Application No. 611 of 1998  
this the 2nd day of May 2001.

HON'BLE MR. S. DAYAL, MEMBER (A)  
HON'BLE MR. RAFIQ UDDIN, MEMBER (J)

Chhedi Lal, S/o late Sri Sukh Deo, R/O 151/B, Railway  
Colony behind Railway Hospital, Etawah.

Applicant.

By Advocate : Sri B.N. Singh.

Versus.

Union of India through the General Manager, Northern Railway,  
Baroda House, New Delhi.

2. Additional Divisional Rail Manager, Northern Railway,  
Allahabad Division, Allahabad.

3. Senior Divisional Electrical Engineer (TRD), Northern  
Railway, Allahabad.

Respondents.

By Advocate : Sri Amit Sthalekar.

ORDER (ORAL)

S. DAYAL, MEMBER (A)

This application has been filed for setting-aside  
the impugned orders dated 23.12.1997 and 8.5.1998.

2. The case of the applicant is that he was posted  
as Senior Clerk under Asstt. Electrical Engineer (TRD)  
Tundla. The Senior Divisional Electrical Engineer  
(respondent no.3) asked the applicant to take additional  
charge of stores, which did not form the duties of Office  
Clerk of Ministerial staff and the respondent no.3 i.e.

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Senior Divisional Electrical Engineer suspended the applicant for not taking the charge of stores and reverted the applicant to the post of Junior Clerk. The order of reversion had been challenged by filing O.A. no. 803/94 before the C.A.T. and the same was set-aside by the Tribunal. The applicant was thereafter reinstated. The respondent no.3 during the pendency of O.A. no. 803/94 issued a chargesheet to the applicant for not complying with the order of reversion, which was challenged by the applicant and the Tribunal stayed the disciplinary proceedings. Another chargesheet was issued to the applicant by the respondent no.3 on 6.10.97 regarding absence from duty during the period of reversion and the applicant in his reply requested for dropping the proceedings, but one Sri T.N. Kakaji was appointed as Enquiry Officer (E.O. in short). The E.O. called the applicant on 24.9.97 at 10.00 A.M. in his office to participate in the enquiry. It is claimed that the applicant had appear at 10.00 A.M., but he was called by the Divisional Electrical Engineer at 10.30 A.M. in his office and the applicant gave two letters to the E.O. and requested for passing appropriate orders. It is claimed that Sri T.N. Kakaji and one Sri P.K. Singh is stated to have been mis-behaved, abused and threatened the applicant. Thereafter, the applicant sent both letters by the registered post. The respondent no.3 took no action against Sri T.N. Kakaji, but issued memorandum dated 16.10.97 resulting into the impugned order of punishment. The appeal against the impugned order of punishment was rejected by the appellate authority, hence the applicant has filed this O.A.

3. We have heard Sri B.N. Singh, learned counsel for the applicant and Sri Amit Sthalekar, learned counsel for the respondents and have also perused the pleadings on record.

4.

The learned counsel for the applicant has contended

that the charge is vague and time of alleged indecent behaviour has not been stated, nor the nature of indecent behaviour has been stated in the chargesheet. The respondents have also not given the documents on the basis of which the applicant could furnish his reply. The letters of the applicant which raised certain issues was wrongly taken as reply and the order of punishment was passed without affording any opportunity to the applicant to defend himself. The order of the appellate authority, after the applicant had addressed his memo of appeal was passed in a summary manner without dealing with the issues raised by the applicant in his ~~memo~~ of appeal and the order of appellate authority was non-speaking.

5. We have carefully considered the points raised by the learned counsel for the applicant on behalf of the applicant and we find from the chargesheet that no time of entry of the applicant in the room of the Senior Divisional Electrical Engineer, Tundla, has been mentioned. The manner in which the applicant became excited and is alleged to have resorted to indecent behaviour is also not mentioned in the Annexure of imputations given in the Standard Form 11. We find that the railway administration is required under Railway Board no. E(D&A) 66 RG6-7 dated 30.12.1968 that the charges should be specific and not vague. The charged employee also expected to be furnished the basis on which the charge has been framed and asked for a list of documents have been relied-upon. We do not find the compliance of the instructions of the Railway Board in drafting the memorandum of charges against the applicant in the standard form 11. The charges as framed did not afford a reasonable opportunity to the applicant to reply to them due to the fact of their vagueness, as well as non-supply of documents prevented the applicant from knowing the nature of the charge.

6. The applicant has claimed that through his

application dated 23.10.97 addressed to the Senior Divisional Electrical Engineer, the applicant had sought the copies of letters of Senior Divisional Electrical Engineer and Asstt. Divisional Electrical Engineer, Tundla, but the copies of the said letters were not furnished to the applicant. In the application dated 23.10.97, the applicant had mentioned that he had come in connection with the enquiry against him on the appointed time. The applicant entered the room and presented to the applications regarding maintainability of the charges and regarding conducting of the enquiry through another officer, but the said applications were not accepted by the Senior Divisional Electrical Engineer. The applicant is also alleged that the officers namely Senior Divisional Electrical Engineer and Asstt. Divisional Electrical Engineer had used un-civil language with the applicant and after threatening him, sent him out of the room. At the end of his application dated 23.10.97, the applicant raised certain questions. The respondents without considering the contents as a of this application took it/ reply to the standard form 11 and declared it irrelevant and imposed the punishment on the applicant. The Railway Board in their instructions no. E(D&A) RG 6-13 dated 28.2.68 have required the disciplinary authority to grant permission to inspect and take extracts from the documents mentioned in the list accompanying the chargesheet or additional documents requested for by the applicant. The denial of the request for the copies of documents to be inspected is considered to be wrong as Rule 9 does not prohibit anywhere the supply of copies and/or inspection of documents before appointment of the Enquiry Officer.

7. We find from the order of punishment that the disciplinary authority has given no finding against the applicant in the standard form 11. He has/ merely stated that the

reply given by the applicant on 23.10.97 was not related to the imputations of the charges, and it has raised irrelevant issues. Hence, the disciplinary authority considered the applicant's guilty and awarded the punishment of stopping the annual increment from Rs. 4875 to Rs. 5000/- for three years.

8. The applicant had raised a number of issues in his memo of appeal. None of the issues ~~was~~ raised by the applicant in his memo of appeal were considered by the appellate authority and the appellate authority was passed a ~~cryptic~~ order to the effect that the applicant had ~~which~~ indulged in breach of office decorum and discipline was an essential part of railway working and could not be violated. It is also stated in the order that the appellate authority did not find any ground for reduction in punishment already awarded. The basic issue raised by the applicant in his application dated 23.10.97 and his memo of appeal that the alleged incident did not take place.

9. We have considered the contention of the learned counsel for the respondents that the Annexure nos. 2 & 3 to the Counter reply contained the facts about the behaviour of the applicant for which the punishment has been awarded. It has been mentioned in Annexure-2 that the applicant entered the room of the E.O., but did not participate in the enquiry proceedings. He requested the E.O. to accept his letters. The E.O. asked the applicant to participate in the enquiry proceedings and to make his statement during the said proceedings. The applicant there-upon became excited and said that the E.O. could do whatever he wanted. It is alleged that the applicant left the room without participating in the enquiry proceedings and without delivering the spare copies of letters.

10. It is clear from the facts of the case that the E.O. has also not been objective and subjectively is apparent from the behaviour of the E.O. as well as the disciplinary authority which is reflected in the facts narrated by the applicant in para 4 of the application.

11. Since, we find that the applicant was not afforded an adequate opportunity to defend himself in view of the facts considered by us in the preceding paragraphs, we set-aside the order of the disciplinary authority as well as the appellate authority. The applicant shall be entitled to all the consequential benefits on account of setting-aside the impugned orders. The compliance of this order shall be made within a period of three months from the date of communication of this order.

12. The O.A. stands disposed of as above with no order as to costs.

*Ranjana*  
MEMBER (J)

GIRISH/-

*A*  
MEMBER (A)