

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 1316 OF 1998

ALLAHABAD THIS THE 10TH DAY OF AUGUST, 2004

HON'BLE MR. JUSTICE S. R. SINGH, VICE-CHAIRMAN

HON'BLE MR. D. R. J. TIWARI, MEMBER-A

Chat Ram son of Sri Gopal,  
resident of Pata, Post Pata,  
District- Etawah.

.....Applicant

( By Advocate Sri R.K. Asthana )

Versus

1. Union of India,  
through General Manager,  
Northern Railway, New Delhi.

2. Divisional Railway Manager,  
Allahabad (N.R.)

3. Divisional Engineer,  
Etawah, (N.R.).

4. Divisional Superintendent Engineer-III,  
Allahabad (N.R.)

.....Respondents

( By Advocate Sri Avnish Tripathi )

RTG/0

ORDER

HON'BLE MR. JUSTICE S. R. SINGH, VICE-CHAIRMAN

The applicant, Chowkider was served with a major Penalty charge memo dated 13.8.1996 under Rule 9 of the Railway Servants Conduct and Discipline Rules 1968. The applicant filed his reply to the charge memo. A copy of the reply has been annexed as Annexure-5 to the O.A.. Since the applicant denied the charges levelled against him, an enquiry was conducted by the enquiry officer to find out that the charges levelled against the applicant are correct and submitted his report. It appears, that the disciplinary authority disagreed with the findings recorded by the enquiry officer and served a notice on the applicant. The disciplinary authority vide order dated 15.11.1997 held that the enquiry officer failed to consider certain points referred to in the order and accordingly found the applicant guilty of the charges levelled against him and awarded punishment of reduction of pay to the basic pay of Rs.750/- for two years. On appeal preferred by the applicant the appellate authority although held that the applicant was not held responsible to some extent and accordingly the appellate authority reduced the punishment of reduction of pay of Rs.800 from the basic pay of Rs.800-1150/-for a period of two years to the

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basic pay of Rs.800/- for a period of one year.

Aggrieved, the applicant has preferred this O.A.

2. It is not disputed that the enquiry officer found the charges levelled against the applicant <sup>as</sup> ~~are~~ baseless. It is not established that the applicant was served with any dis-agreement note. The disciplinary authority has no doubt indicated the grounds of dis-agreement in the impugned order but that, in our opinion, ~~it will~~ <sup>it</sup> ~~not~~ cure the defect. The purpose of furnishing the dis-agreement note to the delinquent is to enable him to submit his explanation and meet the reasons given by the disciplinary authority <sup>to persuade him</sup> ~~not~~ to dis-agree with the findings recorded by the enquiry officer. Even the disciplinary authority ~~recorded~~ has not recorded any categorical finding holding the applicant guilty of the charges. The appellate authority has also noticed that <sup>the</sup> employee was <sup>held him guilty with</sup> ~~not held responsible even then~~ <sup>and</sup> ~~made~~ out considering the points raised by the applicant in his memo of appeal <sup>and</sup> ~~has~~ disposed of the appeal by order dated 16.09.1998 with modification of punishment as indicated above.

3. In our opinion, neither the order passed by the disciplinary authority nor the one passed by the appellate authority is a valid order. Both these orders are liable to

(P.S.J)

be quashed. The O.A. succeeds and is allowed. The applicant shall be entitled to the consequential benefits. The parties are directed to bear their own costs.

*Dharm*  
Member-A

*RHJ*  
Vice-Chairman

/Naslam/