

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 16th day of December, 2004.

Original Application No. 1425 of 2001.

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

Hon'ble Mr. D.R. Tiwari, Member- A.

Sunil Kumar Srivastava a/a 35 years  
S/o Sri Lal Ji Srivastava, R/o 155, LIG,  
Jhansi Yojana II, Jhansi, Allahabad.

.....Applicant

Counsel for the applicant :- Sri Satya Vijay  
Sri Vikas Budhwar

V E R S U S

1. Union of India through General Manager,  
Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, DRM's Office,  
Nawab Yusuf Road, Northern Railway, Allahabad.
3. Senior Divisional Commercial Manager, DRM's Office,  
Nawab Yusuf Road, Northern Railway, Allahabad.
4. Divisional Commercial Manager, DRM's Office,  
Nawab Yusuf Road, Northern Railway, Allahabad.
5. Chief Booking Supervisor, Allahabad Jn. NR, Allahabad.

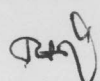
.....Respondents

Counsel for the respondents :- Sri A.K. Gaur

O R D E R

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

The applicant was served with charge memo dated 23.12.1996 in which it was alleged that while working and posted as Booking Clerk at SPTM counter during year 1995-96 on different dates, he was detected to have committed serious misconduct/gross irregularities during the vigilance check on 20.04.1996. An enquiry officer was appointed to enquire into the charges levelled against the applicant. The applicant denied the charges by means of the reply submitted to the charge memo. The enquiry officer however, held the applicant guilty of the



charges. A copy of the enquiry report was furnished to the applicant who submitted his representation dated 10.06.2000. Upon consideration of the enquiry report and the representation filed by the applicant, the Disciplinary Authority i.e. Divisional Commercial Manager, Northern Railway, now North Central Railway, Allahabad agreed with the findings recorded by the Enquiry Officer for reasons disclosed in the impugned order dated 31.08.2000 where by the applicant has been visited with the penalty of dismissal from service. The applicant preferred an appeal under rule 18 of the Railway Servants (Discipline and Appeal), Rules 1968. The appeal came to be dismissed by Senior Divisional Commercial Manager, North Central Railway, Allahabad vide order dated 14.12.2000 which reads as under :-

"Under rule 22(2) of the Railway Servants (D&AR), 1968 your appeal under reference against the order of Divl. Commr. Manager, Allahabad imposing upon you the penalty of dismissal from service as communicated to you vide the punishment notice No. CS/DCM/96/30/SKS dated 31.08.2000 has carefully been considered by the Appellate Authority viz Sr. DCM/Alld, who has passed the following orders :-

"I have gone through the case in detail- the charges, the enquiry report, the defence and the punishment imposed by the D.A. The charges against the the C.O are very serious and have been proved conclusively in the enquiry. In the appeal, the C.O has not stated any substantial ground which can exonerate him from the guilts committed. Since it is matter of grave fraud, the continuance of the C.O in service would imply turning a blind eye to this fraud and encouraging recurrence of such acts. Hence the punishment stands unchanged. The appeal is regretted."

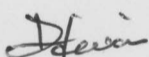
2. A perusal of the appellate order extracted herein above would indicate that the appeal preferred by the applicant has been mechanically rejected without proper self direction *to the grounds taken in memo of appeal and the factors* which the Appellate Authority is required to take into consideration under rule 22 of the Railway Servants (D&AR), 1968.


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The applicant in his memo of appeal had raised several points alleging irregularities in conducting<sup>g</sup> of enquiry but the Appellate Authority does not appear to have critically examined the points raised by the applicant in his memo of appeal and rejected the appeal in a machanical manner. merely because the charges levelled against the applicant were of "very serious nature". The appeal, it cannot be gain said, is not an empty formality and the Appellate ~~A~~power<sup>g</sup> ought to be exercised after proper self direction to the grounds raised by the applicant. The view we<sup>have taking</sup> find & support from the Judgment of Hon'ble Supreme Court in case of Ram Chandran Vs. U.O.I and Ors. AIR 1986 (SC) 1173.

3. Accordingly the O.A succeeds and is allowed in part. The appellate order dated 14.12.2000 is set aside and the matter is remitted to the Appellate Authority for decision of appeal afresh and in accordance with law by means of a reasoned and speaking order within a period of three months from the date of receipt of a copy of this order.

4. There will be no order as to costs.

  
Member- A.

  
Vice-Chairman.

/Anand/