

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Original Application No. 559 of 2001.

Allahabad this the 3rd day of May, 2002.

Q U O R U M :- Hon'ble Mr. C.S. Chadha, Member- A.
Hon'ble Mr. A.K. Bhatnagar, Member- J.

Mohd. Hanif, Retd TTE/MGS
S/o Late Hazi Abdul Gafoor, R/o Mohalla- Islampur,
P.O.- Mughalsarai, Distt. Chandauli.

.....Applicant

Counsel for the applicant :- Sri R. Chaturvedi

V E R S U S

1. Union of India through the Secretary,
M/o Railways, New Delhi.
2. Joint Director, Establishment (D&A), Railway Board,
Rail Bhawan, New Delhi.
3. The General Manager, Eastern Railway,
Calcutta.
4. Senior Divisional Commercial Manager,
Eastern Railway, Mughalsari, Chandauli.

.....Respondents.

Counsel for the respondents :- Sri K.P. Singh

O R D E R (Oral)

(By Hon'ble Mr. C.S. Chadha, Member- A.)

The case of the applicant is that he has been punished and 25% cut in his pension ~~is~~ ^{is} imposed although the enquiry officer held that the charges against the applicant were not proved. We have perused the enquiry

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report of the enquiry officer dated 28.10.1996 in which the enquiry officer has averred "...The undersigned is compelled under the circumstances to opine that the charges are not established. Verdict: Not guilty." When the enquiry officer holds a person not guilty of the charges against him, it becomes the duty of the disciplinary authority that he should forward a copy of the enquiry officer's report together with reasons for differing from the enquiry officer. The delinquent official should be given a show cause notice clearly outlining why the disciplinary authority differs from the finding of the enquiry officer. Without doing so, if any punishment is awarded, that cannot be sustained. We find from show cause notice dated 27.07.1999 sent to the applicant by the Senior Divisional Commercial Manager, Eastern Railway, Mughalsarai, that no reasons have been given for differing from the findings of 'not guilty'. The letter merely states "I do not agree with the findings of the E.O" without assigning any reason. In the first para of the said letter, only the charges are repeated. This does not amount to logical reasoning for differing with the enquiry officer's report. We, therefore, find that the entire proceedings are vitiated by the lack of a proper disagreement letter. However, it could not be in the interest of justice to let the applicant go scot-free. It will be open for the disciplinary authority to issue a fresh show cause notice in place of the letter dated 27.07.1999 to initiate the proceedings again from that stage alone. In other words, he may give a fresh show cause notice to the applicant spelling out specific reasons why he differs from the findings of the enquiry officer recorded in the favour of the applicant in his




report dated 28.10.1996. After giving such a show cause notice, the applicant may must be heard and a speaking order passed.

2. The O.A is, therefore, allowed partially. The orders of punishment dated 03.04.2001 and 25.04.2001 are quashed. The case is remanded back to the authorities for fresh action as directed above.

3. There shall be no order as to costs.


Member- J.


Member- A.

/Anand/