

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD.

....

Original Application No. 674 of 2001.

this the 19th day of July 2001.

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

Dinesh Babu Katiyar, aged about 44 years, S/o Sri Shiv  
Kumar Katiyar, Pharmacist, Divisional Railway Hospital,  
Northern Railway, Allahabad.

Applicant.

By Advocate : Sri K.N. Katiyar.

Versus.

1. Union of India through General Manager, H.Q.  
Office, Northern Railway, Baroda House, New Delhi
2. Chief Medical Director, N.R., Baroda House,  
New Delhi.
3. Chief Medical Supdt. N.R., Allahabad.
4. Senior Divisional Medical Officer, (Incharge  
Dispensary), Northern Railway, Allahabad.

Respondents.

By Advocate : Sri M.K. Sharma for Sri A.K. Gaur.

ORDER (ORAL)

S. DAYAL, MEMBER (A)

This application has been filed for setting-  
aside the appellate orders dated 5.2.2000 and punishment  
order dated 2.12.1999 as they are not speaking orders.

2. The applicant who is a Pharmacist in Divisional  
Railway Hospital, Northern Railway, Allahabad was  
issued memorandum dated 28.6.99 for minor penalty  
on the <sup>allegedly</sup> false and frivolous allegations committed  
irregularities inasmuch as he failed to maintain ledger  
of medicines. By order dated 28.6.99 the penalty of



withholding of increment for a period of six months was imposed upon the applicant. It is claimed that the order of the disciplinary authority as well as the order of the appellate authority were passed without considering his defence and are non-speaking in nature.

3. We have heard Sri K.N. Katiyar, learned counsel for the applicant and Sri M.K. Sharma brief holder for Sri A.K. Gaur for the respondents.


4. We find from the perusal of the order dated 2.12.1999 that the disciplinary authority found some irregularities in the distribution of medicines and in posting of ledger, <sup>and also found that they were &</sup> ~~although it was~~ not intentional, <sup>and</sup> ~~and~~ <sup>could have been &</sup> ~~may be~~ due to rush of work or human error and no wrong motive could be associated, yet the order of punishment has been passed against the applicant.

5. It was the responsibility of the appellate authority to have examined the memorandum of appeal as per provision of Rule 22 (2) of Railway Servants (Discipline & Appeal) Rules, 1968 ( Rules of 1968 in short), Rule 22(2) of the Rules of 1968 is extracted below :

"(2) In the case of an appeal against an order imposing any of the penalties specified in Rule 6 or enhancing any penalty imposed under the said rule, the appellate authority shall consider

- (a) whether the procedure laid down in these rule has been complied with, and if not, whether such non compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;
- (b) whether the findings of the disciplinary authority are warranted by the evidence on the record; and
- (c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe; and pass orders: ---"

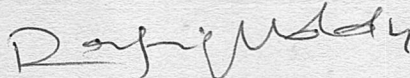
6. We find from the appellate order that issues raised by the applicant in his appeal dated 15.1.2000 have not been considered by the appellate authority.



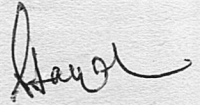


The appellate authority has also not discharged the requirement<sup>4</sup> under Rule 22(2) of the Rules of 1968. The order of the appellate authority is totally non-speaking order and, therefore, the same is set-aside. The appellate authority is directed to decide the appeal of the applicant afresh within a period of two months from the date of communication of this order, by a reasoned and speaking order as required under Rule 22(2) of the Rules of 1968.

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



MEMBER (J)



MEMBER (A)

GIRISH/-