

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

**HON'BLE MR.A.K. GAUR , MEMBER (J).
HON'BLE MR. S. N. SHUKLA, MEMBER (A).**

Original Application Number. 670 OF 2004.

ALLAHABAD this the 22nd day of **March, 2010.**

Manoj Kumar Mishra, Aged about 51 years, son of Shri G.P. Mishra, resident of 5/93, Civil Lines Sipari Bazar, Jhansi, posted a Senior Section Engineer, Carriage & Wagon, Jhansi.

.....Applicant.

VERSUS

1. Union of India through General Manager, North Central Railway, Mumbai CST.
2. Additional Divisional Railway Manager, North Central Railway, Jhansi.
3. Senior Divisional Mechanical Engineer, North Central Railway, Jhansi.

.....Respondents

Advocate for the applicant: Sri Vikash Budhwar
Advocate for the Respondents : Smt. Anita Srivastava

ORDER

(Delivered by Hon'ble Mr. A.K. Gaur, J.M)

Learned counsel for the applicant submitted that the order dated 23.04.2004/Annexure-1 of O.A passed by the Appellate Authority has is wholly cryptic , non-speaking as the Appellate Authority while deciding the appeal has passed order in a most casual and perfunctory manner and without application of mind. Learned counsel would contend that the disciplinary has added one charge of HRA, which was not the subject matter of case and is not permissible in accordance with law. Learned

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counsel for the applicant placed reliance on a decision rendered by Hon'ble Supreme Court reported in **1999 (2) SCC - Kuldeep Singh Vs. Commissioner of Police and others.**

2. We have carefully seen the aforesaid judgment. In para 39 of the said judgment Hon'ble Supreme Court has held as under : -

"39. From the findings recorded separately by the Deputy Commissioner of Police, it would appear that there I a voucher indicating payment of Rs. 1000 to Rajpal Singh, one of the labourers , on 8-2-1990. This document was not mentioned in the charge sheet in which only two documents were proposed to be relied upon against the appellant namely, copy of the report of SHO Lajpat Nagar dated 5-3-1990 against the appellant and the copy of the labourers' statement. This document has, therefore, to be excluded from consideration s it could not have been relied upon or even referred to by the Deputy Commissioner of Police. Moreover, according to the charge framed against the appellant , payment was made on 22-2-1990 and not on 8-2-1990 as indicated in the voucher and, therefore, the voucher for this reason also has to be excluded."

3. We have also carefully seen the order passed by the Appellate Authority as well as the memorandum of appeal dated 14.04.2004/Annexure -5 of O.A and find that the applicant has raised several grounds in his Appeal in 12 pages but the Appellate Authority has passed the order dated 23.04.2004 without application of mind as he had not decided the appeal of the applicant in accordance with the decision of Hon'ble Supreme Court rendered in following cases: -

- a. **Chairman/Disciplinary Authority, Rani Laxmi Bai Gramin Bank Vs. Jagdish Varshney (JT 2009 Vol 4 SC 519),**

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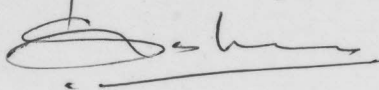
- b. **N.M. Arya Vs. United India Insurance Company (2006 SCC (L&S) 840),**
- c. **D.F.O Vs. Madhusudan Das (2008 Vol I Supreme Today page 617),**
- d. **Director, I.O.C Vs. Santosh Kumar (2006 Voll. 11 SCC page 147), and**
- e. **State of Uttaranchal Vs. Karag Singh (2008 Vol 8 SCC 236).**

In all the aforesaid cases, it has been held by the Hon'ble Apex Court that while deciding the representation/appeal/revision by the competent authority, speaking order should be passed.

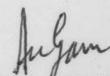
4. Accordingly, without entering into merits of the case, we hereby set aside the order dated 23.04.2004/Annexure -1 of O.A passed by the Appellate Authority and remit the matter back to decide the Appeal of the applicant dated 14.04.2004/Annexure-5 of O.A afresh by a reasoned and speaking order meeting all the contentions raised by the applicant in his appeal , within a period of three months on receipt of certified copy of the order, in accordance with law and relevant rules on the subject (as referred above) and communicate the decision to the applicant.

5. With the aforesaid directions, the O.A is allowed partly with no order as to costs.

Be it noted that we have not passed any order on merits of the case.



MEMBER- A.



MEMBER- J.

/Anand/.