

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No. 927 of 2004.

Tuesday, this the 24th day of August, 2004.

Hon'ble Mrs. Meera Chhibber, J.M.
Hon'ble Mr. S.C. Chauhan, A.M.

Amit Kumar Garg,
urf Amit Garg,
aged about Years son of
Shri Brij Mohan Gupta Technician
Grade III, N. Railway, Saharanpur
r/o Opposite Kothi No.4,
Chander Nagar, Saharanpur.

.....Applicant.

(By Advocate : Shri S. Ram)

Versus

1. Union of India,
through General Manager,
Northern Railway,
Headquarters Office Baroda House,
New Delhi-I
2. Divisional Railway Manager,
Northern Railway, Ambala Cantt.
3. Divisional Electrical Engineer (RS)
Northern Railway, Ambala Cantt.
4. Sr. Divl. Electrical Engineer,
Northern Railway, Ambala Cantt.
5. Assistant Electrical Engineer,
Northern Railway, Ambala Cantt.

....Respondents.

(By Advocate : Shri A.K. Gaur)

O R D E R

By Hon'ble Mrs. Meera Chhibber, J.M. :

By this O.A., applicant has sought quashing of the order dated 20.11.2000 passed by the Assistant Electrical Engineer, Northern Railway, Ambala Cantt., report report dated 18.9.2001, and order dated 30.12.2002 whereby he has been imposed penalty of reduction in the pay-scale and also show-cause notice dated 4.4.2003 issued by Sr. DEE(TRD)/N/Railway, Ambala. He has further sought a direction to the respondents to pay of the applicant in its original position from the date of passing the impugned penalty dated 30.12.2002 and allow

B

him promotion in the higher grade as Technician Gr.II from the date his junior person was promoted with all consequential benefits including back wages.

2. It is submitted by the applicant that against the order dated 30.12.2002, applicant had submitted his appeal to DEE (TRD), Ambala Cantt on 20.2.2003 (Annexure 3 page 44), which was not decided, and the revisionary authority in the meantime, on his own, issued a show-cause notice dated 4.4.2003 to explain as to why the punishment should not be enhanced (page 23). It is submitted by the applicant that he gave a detailed reply to the show-cause notice on 16.4.2003 (page 48), but till date neither his appeal has been decided, nor show cause notice has been dropped by the revisionary authority, therefore, he had no other option, but to file the present O.A.

3. The counsel for the respondents has submitted that since the applicant's appeal is still pending for consideration with the appellate authority, this O.A. may be disposed off with a direction to the appellate authority to decide the appeal of the applicant by a reasoned and speaking order thereon within a stipulated period.

4. We have heard both the counsel and perused the pleadings as well.

5. Counsel for the applicant has invited our attention to Rule 25(2) of Railway (Discipline & Appeal) Rules, 1968, which for ready reference reads as under:

" NO proceeding for revision shall be commenced until after
(i) the expiry of the period of limitation for an appeal of;
(ii) the disposal of the appeal where any such appeal has preferred

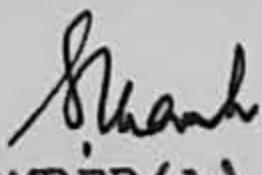
Provided that the provisions of this sub-rule shall not apply to the revision of punishment in case of Railway accidents."

6. It is, thus, submitted by the learned counsel for the applicant that in view of this, the Revisionary authority could

not have issued the show-cause notice to him, until disposal of his appeal as he had already preferred within the limitation period.

7. Since the rule makes it clear that no proceeding for revision shall be commenced until after the disposal of the appeal, we would agree with the applicant's counsel that the Revisionary authority could not have issued show-cause notice to the applicant. Since his appeal is still pending with the appellate authority, therefore, the show-cause notice is quashed and set-aside. However, liberty is given to the Revisionary authority to pass any such order if so advised, at appropriate stage after following the due process of law. In the meantime, since the applicant's appeal is still pending with the appellate authority, this O.A. is disposed off, without going into the merits of the case, by directing the Divisional Electrical Engineer, N.R., Ambala (respondent no.3) to decide the appeal of the applicant by passing a reasoned and speaking order, after dealing with all the points raised by the applicant in his appeal, within a period of three months from the date of receipt of copy of this order under intimation to the applicant. Incase after final orders are passed by the appellate authority, if the applicant becomes entitled to any consequential benefits, the same shall also be paid to him, otherwise reasoned order, as stated above, should be passed.

8. In view of the above, the O.A. stands disposed off with the above directions without any order as to costs.


Member (A)


Member (J)

GIRISH/-