

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
BENCH ALLAHABAD**

(THIS THE 10th DAY OF MARCH 2010)

Hon'ble Mr. A.K. Gaur, Member (J)

Hon'ble Mr. S.N Shukla, Member (A)

Original Application No. 1061 of 2004

(U/S 19, Administrative Tribunal Act, 1985)

Iqbal Husain, son of Shri Munshi Khan, resident of Village Palia Jhanda, Post Binawar, District Badaun.

..... **Applicant**

Versus

1. Union of India through Ministry of Railway, Rail Bhawan, New Delhi.
2. Divisional Railway Manager (Mechanical), North Eastern Railways, Izat Nagar, Bareilly.
3. Assistant Mechanical Engineer, Loco North Eastern Railways, Izat Nagar, Bareilly.
4. Shri N. N Raina, Assistant Mechanical Engineer, Loco North Eastern Railway, Izat Nagar, Bareilly.

..... **Respondents**

Present for Applicant : Shri A.S. Diwakar

Present for Respondents : Shri K.P Singh

ORDER

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

We have heard Sri A.S. Diwakar, learned counsel for the applicant and Shri K.P Singh, learned counsel for the respondents.

2. During the course of argument, Shri A.S Diwakar, learned counsel for the applicant submitted that Appellate Authority was required to pass appellate order inconformity with the direction issued by the Tribunal in its earlier order dated 13.3.2002 in O.A. No. 112 of 1994.

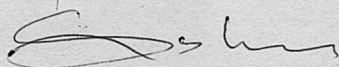
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3. Shri A.S. Diwakar, learned counsel for the applicant would contend that he also taken specific plea in his memo of appeal with regard to quantum of punishment and clearly submitted that the punishment awarded is too excessive and harsh. It is settled principle of law that this Tribunal cannot look into the proportionality of punishment unless it is shockingly disproportionate.

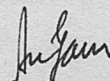
4. We have carefully seen the appellate order dated 8.7.2002. A careful perusal of order passed by the Appellate Authority indicates that the same has not been passed in accordance with the direction given by the Tribunal in its order dated 13.3.2002. We have also noticed that point of proportionality of punishment has not at all been considered by the Appellate Authority.

5. Having given our thoughtful consideration to the pleas advanced by the learned counsel for the parties, we are firmly of the view that the appellate order has not been passed according to the direction given by the Tribunal. We accordingly quash and set aside the impugned orders dated 8.7.2002 and 29.8.2002 (Annexure A-15 and A-18) and remit the matter back to the Appellate Authority to reconsider the matter afresh and pass appropriate reasoned and speaking order, with regard to point of proportionality of punishment and to comply the direction contained in order dated 13.3.2002 of the Tribunal within a period of three months from the date of the receipt of the copy of this order.

6. With the above direction, the OA is disposed of with no order as to costs.



Member-A



Member-J

Manish/-