

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD

O.A.NO. 1253 1987.
I.A.NO.

DATE OF DECISION August 1, 1989

Devendra Vikram Singh PETITIONER

Sri J. K. Saxena Advocate for the
Petitioner(s)

VERSUS

U. O. I. & Others RESPONDENT

Sri A. K. Gaur. Advocate for the
Respondent(s)

CORAM :

The Hon'ble Mr. K. J. Ramu, A.M.

The Hon'ble Mr. D. K. Agrawal, J.M.

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✓
4. Whether to be circulated to other Benches ?

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Versus

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Delivered by Hon. K.J. Raman, A.M.)

ation, under Section 19 of the
als Act, 1985, has been filed
kram Singh, an Engine Cleaner,
hern Railway, against the Union
icers of the Northern Railway,
nt has been removed from service
r dated 29.10.1986 (Annexure '5'
The appeal filed by the applicant
y respondent no.3, the Senior
1 Engineer (Sr.DME), Northern
the impugned order dated 30.3.1987
review application filed by the
a similar fate through an order
ed by respondent no.5, Additional
anager (ADRM), Northern Railway,
three above impugned orders and
in service.

ent facts of the case, succinctly,
ent claims to be the ^a~~senior~~ senior Engine
1974. He had filed certain suit:

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in Civil Court for declaration of his seniority, as he claims, ^{and} is stated to have been successful. It is his case that his successful litigation and insistence ^{on} ~~for~~ being given a proper posting appropriate to him, have antagonised the officials above him leading to issue of a charge-sheet on 9.1.1986. The charge for imposition of a major penalty was that the applicant was unauthorisedly absent for 12 days, viz. from 20.10.1985 to 31.10.1985 and, secondly, ^{that} ~~he~~ refused to take the work assigned to him on 1.11.1985. An enquiry was conducted and the Enquiry Officer gave a report holding the charge as proved. A show-cause notice was issued for removal and thereafter the impugned order dated 29.10.1986, referred to above, was issued. The other two impugned orders followed in due course, as indicated above. A number of grounds have been alleged by the applicant in support of the relief claimed by him. The chief amongst them are that all the three impugned orders have been passed by the respective authorities without application of mind and that the appellate and review orders are non-speaking orders. In particular, the applicant alleges that the appellate authority upheld the order of removal without taking into account the points mentioned in the appeal submitted by the applicant.

3. The respondents have denied the allegations of the applicant and have sought to justify the issue of the impugned orders. One of the justifications given in para 12 of the counter affidavit is that the applicant had been unauthorisedly absent during 1976-79, 1979-81 and 1981-86. The charge-sheet in this case however, is only in regard to the absence of 12 days,

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as indicated above. The other periods of absence, mentioned in the counter affidavit, do not seem to be relevant at all so far as the impugned proceedings are concerned. It is not clear whether such irrelevant matters have been taken into account in deciding the case against the applicant. There is no statement of the respondents that any disciplinary action was taken in respect of the other periods of absence and it was properly found as factually correct that such absence was unauthorised. Certain copies of office notings have been submitted in an attempt to show that the appellate and review authorities had applied their mind and given due consideration to the points raised by the applicant.

4. The case was heard on 3.8.1989 when Sri J.K. Saxena, learned counsel for the applicant and Sri A.K. Gaur, learned counsel for the respondents, argued their case.

5. After a careful consideration we feel that it is not necessary in this case to go into the details of the various grounds urged by the applicant and the reply given by the respondents. The case is liable to be disposed of on a short point. As pointed out earlier, one of the main contentions of the applicant ^{is} ~~was~~ that the order in appeal is ^a non-speaking order ⁱⁿ and does not disclose the reasons for the decision; and ^{that} the same has been passed without considering the points contained in the appeal and without application of mind. The order in appeal dated 30.3.87 (Annexure '7') is in a cyclostyled form with blanks for filling of name, date, etc. ⁱⁿ The only written portion in the order is as follows :-

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"The punishment given by the disciplinary authority is sustained."

This is hardly a speaking order. The order does not disclose the reasons for the decision, nor does it give any evidence of application of mind. Even the office notings provided by the learned counsel for the respondents ~~do~~^{do not} change the above position. The appellate authority does not give any indication that it had in fact seen the appeal of the applicant and considered the various points raised by him, particularly as regards the alleged excessive nature of the punishment meted out to him. The law in this respect has been well laid down by the Hon'ble Supreme Court in Ram Chander v. Union of India (AIR 1986 (2) S.C. 252), according to which the appellate authorities in disciplinary matters are bound to give a speaking order containing reasons for the decision. Similarly in R.P. Bhat v. Union of India (AIR 1986 S.C. 149) the Hon'ble Supreme Court has laid down that the requirements of the appellate rules must be truly satisfied and indication thereof must be found in the orders. Mere mechanical reproduction of catch-words in those rules is not sufficient. It is seen that the impugned order dated 27.7.1987 passed on the review application is also similarly ^a non-speaking order. ₂₂₇

6. In such a view of the matter the application is bound to succeed. The application is accordingly allowed. The impugned appellate order dated 30.3.1987 (Annexure '7') and the impugned review order dated 27.7.1987 (Annexure '8') are hereby quashed. The appellate authority is hereby directed to consider

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de novo the appeal filed by the applicant over the punishment order, in the light of the observations made above. The appellate authority shall, after due application of mind and consideration of the various points urged in the appeal, issue a reasoned and speaking order. These directions shall be complied with within three months from the date of receipt of this order. We make no order as to costs.

DK Agarwal
MEMBER (J).

10/2/89
MEMBER (A).

Dated: August 29, 1989.

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