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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

....

Registration No. 254 of 1987

R.K. Dubey ... Applicant.

Versus

Sr. Divisional Commercial Suptd.  
Central Railway, Jhansi and others .... Respondents.

...

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

Hon'ble Mr. K. Obayya, A.M.

( By Hon'ble Mr. D.K. Agrawal, J.M. )

This application under Section 19 of the Administrative Tribunals, Act 1985 is directed against the order of punishment of removal from service inflicted on the applicant by an order dated 18.4.1985. The facts, in brief <sup>are</sup> ~~rise~~, that the applicant as a 'Ticket Collector' was required to <sup>a</sup> ~~man~~ A/C. Chair Car Compartment in 16 Up Ex New Delhi to Jhansi on 9.2.1984. Sri B. Prasad A.D.R.M.(O) boarded the train at Agra for Jhansi. During the course of journey, the applicant namely Sri R.K. Dubey misbehaved with A.D.R.M.(O), made attempt to bribe him ~~on~~ <sup>on</sup> being <sup>confronted</sup> ~~deducted~~ that he was carrying <sup>two</sup> ~~to~~ passengers in the corridor without ticket. A.D.R.M.(O) made a note in the form of complaint <sup>of</sup> ~~10.2.1984~~ on the basis whereof, the applicant was charge-sheeted and an enquiry was started against him. The enquiry officer returned the finding against the applicant, whereupon, the disciplinary authority imposed the punishment of Removal from services vide order dated 18.4.1985. The appeal of the applicant was rejected vide order dated 2.7.1985 in the following words;

*Okceal*



" I interviewed the party. I have gone through the entire case and find that the charges have been proved. I also find that the Penalty imposed is not excessive considering that the charges of corruption are so grave."

The applicant also availed right of revision <sup>regarding</sup> ~~and the~~ penalty imposed on him in accordance with Rule 24 (2) of Railway Servant (Disciplinary & Appeal) Rule, 1968. The General Manager, Central Railway rejected the revision on the basis of the opinion recorded by Railway Rates Tribunal.

2. We have heard the learned counsel of the parties and perused the record. It is difficult for us to reach the conclusion that the present case is <sup>a case</sup> ~~one~~ of no evidence. Consequently, we can not interfere with the quantum of punishment. However, we find that the appellate authority has disposed the appeal cursorily without <sup>a</sup> speaking order. Therefore, the same does not <sup>meet</sup> ~~meet~~ the requirement of Rule-22 of the Railway Service ( Disciplinary & Appeal ) Rules, 1968. The reviewing authority has also failed to take into account this aspect of the matter. It is immaterial that the reviewing authority has passed an order after <sup>consulting</sup> ~~consulting~~ Railway Rates Tribunals about the quantum of punishment. We have gone through the memo of appeal, wherein, various points have been raised. The appellate authority, on the other hand, failed to deal with the point or points raised by the delinquent employee in the memo of appeal. The appeal <sup>authority</sup> has only jumped to a conclusion about the quantum of punishment. We are of the opinion that ~~unless~~ the appellate authority <sup>has to</sup> deal with the point or points raised by the delinquent employee and arrived at a conclusion of his own agreeing or disagreeing

Dr. Aswani

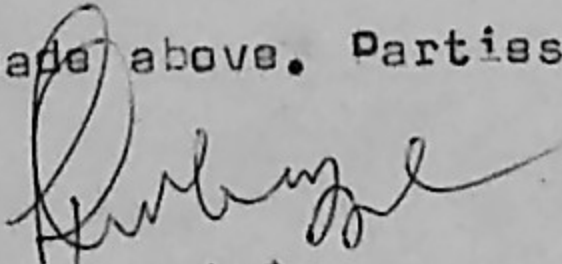
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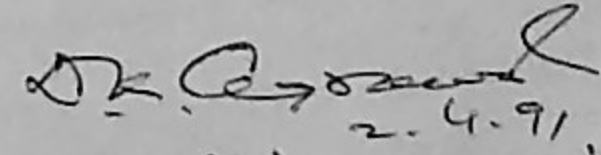


with the order of the Disciplinary Authority. It is only thereafter, that the appellate authority has to consider whether the quantum of punishment is commensurate with the mis-conduct of the delinquent employee.

3. In these circumstances, we are of the opinion that case may be remanded to the Appellate Authority to pass an order disposing of the memo of appeal afresh in the light of our observations made above in the body of the judgment.

4. In the result, we hereby quash the order passed by the Appellate Authority as well as the reviewing authority and direct the appellate authority to take into account the memo of appeal filed by the delinquent employee and decide the appeal in accordance with the provisions of law and in the light of observation made above. Parties shall bear their own costs.

  
Member (A)

  
Member (J)

Dated: 2.4.1991

Allahabad.

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