

~~A3~~ (9) Court No. 1

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

....
Registration No. 492 of 1987

R.K. Sharma Applicant.

Versus

Senior Divisional Personal Officer
Jhansi and others Respondents.

...
Hon'ble Mr. D.K. Agrawal, J.M.
Hon'ble Mr. A.B. Gorthi, 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 removal dated 8.10.1986 inflicted by way of punishment after enquiry on the applicant who was at the relevant time working as a 'Senior Clerk' in Central Railway, Jhansi. The order of punishment was confirmed by the appellate authority vide order dated 13.2.1987. The allegation of the applicant is that the appellate authority had not disposed of the appeal ^{tin the time} ~~while~~ the claim petition was filed. Therefore, the order of appellate authority does not exist on record. We have perused the same from the original file produced by the counsel for the Railway Administration. The appeal has been disposed of in the following words; " I have gone through the appeal ^{of} delinquent employee carefully. I have decided to uphold the punishment imposed by the Disciplinary Authority."

2. The case was listed and was called in the pre-

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lunch session by the bench which held sitting in pre-lunch session. It came for hearing before us in post lunch session. The applicant was present in person. The applicant made a request that his case be heard. Therefore, we have heard the applicant and the learned counsel for the Railway Administration. We have perused the original records as well. The main stream of argument raised by the applicant was that the quantum of punishment was not commensurate with the mis-conduct, if any, committed by him. On perusal of record, we found that the charge-sheet mentions two charges against him; firstly, that he forwarded the application of one Hira Lal for second 'Festival Advance' without the first advance having been liquidated. ^{when} As his explanation was called for dereliction of duty by the Loco-Foreman, he made un-warranted remarks against Loco-foreman. The second charge was that when one B.D. Punit applied for 'Casual Leave' and the leave was sanctioned by the sanctioning officer, the applicant made remarks against the sanctioning authority. As against both these charges, the applicant expressed regret before the enquiry officer. Therefore, the enquiry officer held the charge to be proved. The disciplinary authority agreeing with the finding of the enquiry officer, awarded punishment of removal from service. The applicant feeling aggrieved with the quantum of punishment, preferred an appeal. The appellate authority, however, passed a non speaking order as quoted above. We are of the opinion that the appellate authority should have applied his mind

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and recorded reasons for agreeing with the order of disciplinary authority as regards the quantum of punishment as well. The order of appellate authority being a non speaking order and having ^{not} been passed without proper application of mind, in our opinion, can not be sustained in law. Therefore we order as follows;

3. The claim petition is allowed in part as much as the order of appellate authority is set aside. The appellate authority shall proceed to decide the appeal of the applicant dated 12.11.1986 afresh after affording an opportunity of personal hearing to the applicant. Accordingly, we allow this petition in part and remand the case to the appellate authority for the decision ^{of} ~~in~~ appeal afresh. Parties shall bear their own costs.

Janardan
Member (A)

Allahabad.
27.3.1991

D.K. Garg
Member (J) 27.3.91

(n.u.)