

(7) (A3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
Registration O.A. NO. 512 of 1967

N.C.Srivastava

Applicant

Vs.

D.R.M. Northern Railway & Others

Respondents

Hon'ble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr. A.B. Gorathi, Member (A)

(By Hon. Mr. Justice U.C.Srivastava, V.C.)

The applicant was appointed as Khalasi in the Electrical Department under Divisional Railway Manager, N.Railway, Allahabad, and he was gradually been promoted as S.P.A. at Allahabad. On 15.2.82 the applicant was kept under suspension because of burnt ~~of~~ overhead coil of Pump Engine, and he was transferred from Allahabad to Etah on 15.5.82. The applicant's wife made a representation and the applicant's transfer was stayed and he was allowed to stay at Allahabad. But on 9.9.82 he was suspended again. Two charges were levelled against the applicant. The first charge is that while working as S.P.A. he violated Rule 3(i)(ii) & (iii) of the Railway Service(Conduct) Rules, 1966 in as much as that he absconded from duty for hours together leaving the pump in running position which resulted in burning out of overhead coil of one phase. The second charge against the applicant was that he was deputed to operate the pump of New DS Pump (Institute) in the shift of 0600 to 1800 hrs, and the applicant was deputed to attend the pump, he left his place of duty keeping the pump in running position which resulted in heavy fluctuation of voltage between phases thereby the overhead coil of one phase burnt out. The starter could not be tripped off and the motor was running atleast two hours on single phase. The applicant was required to submit his reply. It appears that the applicant did not submit his reply and moved an application praying for time to file certain documents.

2. According to the applicant an ex-parte ^{enquiry} ~~took place behind~~ ^{his back} and on the basis of enquiry he was punished. The applicant filed an appeal against the same and the punishment was reduced. Although ~~a~~ the number of grounds were taken by the applicant in the appeal, but the appellate authority it appears did not discuss ~~the~~ the appeal and

reduced the punishment.

3. The Enquiry Officer's report which has been filed in the Written Statement, it has been stated that the applicant refused to take the chargesheet and he also threatened the Foreman-Pump. He was asked to attend the enquiry on 14.12.83, but in the meantime the date was fixed on 17.12.83 and thereafter fixed on 2.1.84. On 2.1.84 he filed a representation that time for 3 months may be given to him for collecting the papers etc and left the office. Again the date was fixed on 30.3.84 and the applicant instead of doing anything said that the department was guilty and as much the chargesheet was not given to him. The date was adjourned to 27.2.1985, and he did not attend the same, and on 7.2.86 he gave a representation and went away. It is on the basis of these dates the Enquiry Officer without taking any ex-parte evidence came to the conclusion that the applicant was guilty of negligence of duty, Goondaism, non-receipt of chargesheet holding administration guilty, and not attending the enquiry deliberately and as such the punishment was recommended to him.

4. Copy of the Enquiry Officer's report was obviously not given to the applicant, and the disciplinary authority acted on the basis of Enquiry Officer's report. It indicates that no ex-parte evidence was taken by the Enquiry Officer, and the Enquiry Officer did not take into consideration any documents to reference to which finds place in the chargesheet, and he gave a ~~larged~~ ^{en-} ~~scope of~~ ^{to the} enquiry. Two charges were levelled against the applicant, but the Enquiry Officer held various other charges against the applicant for which he was not appointed as Enquiry Officer. The Enquiry Officer's report was not in accordance with law, on which the disciplinary authority acted. Accordingly the entire proceedings are vitiated and the appellate authority's order dated 29.3.87 and the Disciplinary Authority's order dated 15.9.86 are quashed. However it is being made clear that ~~it is open to~~ ^{to} notice be issued to the Railway Administration to hold an enquiry in case they desire, but in accordance with law. No order as to costs.

transcript
Member (A)
26th November, 1991, Alld.
(sph)

lu
Vice-Chairman.