

A-2
2

(17)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 849 of 1987

Shri S.N. Pandey .. Applicant
Versus
Union of India and Others ... Respondents

Hon. Mr. A.B. Gorthi, A.M.
Hon. Mr. S.N. Prasad, J.M.

(By Hon. Mr. A.B. Gorthi, Member(A))

Aggrieved by the penalty of the order of dismissal from service imposed vide order dated 30.6.86 passed by Senior Divisional Commercial Supdt Northern Railway Allahabad, the applicant has filed this application Under Section 19 of the Administrative Tribunals Act praying that the impugned order of dismissal and also the appellate authority's order rejecting his appeal and the order of the reviewing authority rejecting his request for review be quashed and that he be reinstated in service with all consequential benefits. It appears that the applicant was a booking clerk at Kanpur Railways^{Station} on 31.12.1981. In connection with certain ² alleged irregularities pertaining to the sale of tickets and charging fares from the passengers a charge memo was served upon him on 6.9.92 which was followed by the departmental enquiry. On the conclusion of the

Contd.../p2

A2
3

(18)

: : 2 : :

departmental enquiry, agreeing with the Enquiry Officer's report the Competent Disciplinary Authority imposed the penalty of dismissal from service. An appeal submitted by the applicant addressed to the Addl. Railway Manager was rejected on 23.1.87 by means of a non speaking order. His prayer for the revision was also turned ^{down} ~~out~~ on the ground ¹ that the same was time barred.

2. We have heard the counsel of both the parties. Learned counsel for the applicant Sri O.P. Gupta assailed the penalty essentially on three major grounds. Firstly, he contended that this was a case of no evidence at all. His second contention was that a copy of the Enquiry Officer's report was not furnished to the applicant by the Disciplinary authority before he inflicted the penalty upon the applicant. Thirdly it was contended that the orders passed by both the disciplinary authority and the appellate authority were non speaking orders and ~~were~~ ¹ therefore liable to be quashed.

3. We have ^{been} taken through the Enquiry Officer's report. We find that during the enquiry not only most of the relevant documents were taken into account but also three witnesses were examined. May be that the witnesses were the vigilance/railway officials but that is no ground to reject their evidence as such. Learned counsel for the applicant contented that since the three passengers who made complaints against the applicant were themselves not examined at the enquiry, the enquiry is vitiated. In this regard he has placed reliance on the case "K. Chalamaiyya ¹ Vs. D.R.M. S.E. Railway A.T.R1990(1) C.A.T 112. That was ¹

A-2
3

(191)

: : 3 : :

a case where the applicants ^{were} charged for accepting money from the passengers. The passengers ^{deposed} ~~reported~~ at the preliminary enquiry but were not examined during the regular departmental enquiry. It was therefore held in that case that failure on the part of the Enquiry officer to examine the said witnesses and to deal with the objections raised by the applicant in that case vitiated the departmental proceedings. In the instant case it is apparent that bulk of the evidence was there in the shape of various tickets, reservation chart etc which was duly produced during the enquiry. It cannot therefore be said that in this case there was no evidence at all to support the enquiry officer's finding.

4. On the second aspect of the challenge made by the learned counsel for the applicant we find that it has considerable ^{force} ~~course~~. The Disciplinary authority without furnishing the applicant a copy of the enquiry Officer's report proceeded to impose the penalty, thus violating the principles of natural justice. In the case of Union of India Vs. Mohd. Ramzan Khan A.I.R 1991 S.C. page 471 it was held that non furnishing of the enquiry officer's report to the delinquent employee by the disciplinary authority would be violative of the principles of natural justice and the penalty imposed consequently would be rendered illegal. Accordingly in this case we hold that the penalty order passed by the disciplinary authority is liable to be set aside on this ground.

5. We also find that the contention of the learned counsel for the applicant that the appellate order is

h

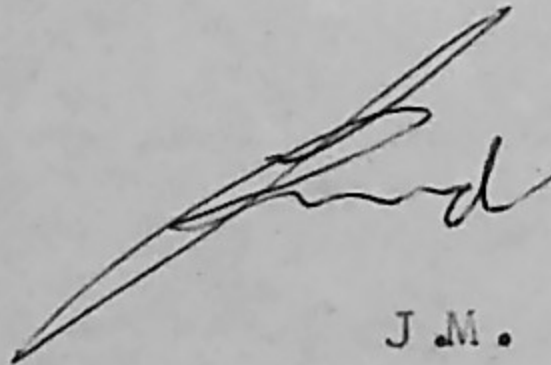
A-2
4

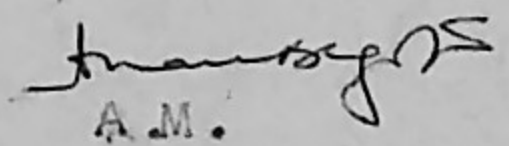
20

: : 4 : :

a non speaking order is very valid. A casual reading of the appellate authority's order will indicate that it is a very cryptic and non speaking order. It is well settled that the appellate authority is required to apply his mind and go through the various contentions raised by the delinquent employee in his appeal and pass a reasoned order so that the said order cannot be said to be either arbitrary or the result of caprice. In view of this the order of the appellate authority dated 23.1.87 is also liable to be set aside.

6. In the result we quash the order of the disciplinary authority (Annexure 1 to the application) dated 30.7.86 and also the order of the appellate authority (Annexure 3) dated 23.1.87. The applicant shall be reinstated in service and shall be deemed to be continuing in service. It is however open to the disciplinary authority to take further action in the matter from the stage of calling upon the applicant to state whatever he has in defence of the Enquiry Officer's report.


J.M.


A.M.

Dated: 22nd May, 1992

(Uv)