

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH ALLAHABAD.

Allahabad this the 19 day of January 1996.

Original Application No. 1101 of 1988.

Hon'ble Mr. Justice B.C. Saxena, VC  
Hon'ble Mr. S. Das Gupta, AM

Mukhdeo S/o Sri Khuddi,  
Aged 53 years, Address for  
notices P.W.I., North East  
Railway.

..... Applicant.

C/A Sri Arvind Kumar

Versus

Union of India, through  
General Manager, North  
East Railway, Gorakhpur,  
(U.P.).

..... Respondent.

C/R Sri A.V. Srivastava

O R D E R (ORAL)

Hon'ble Mr. Justice B.C. Saxena, VC

Through this O.A. the applicant challenges an order dated 10/23.3.88 imposing the punishment of reduction to lower post in the scale 825-1200. The reversion was from the post of Mate to Keyman. <sup>Under challenge for</sup> is also the order dated 12.7.88 by which the applicant's appeal against the order of punishment had been rejected. The learned counsel for the applicant has drawn our attention to the fact that the Inquiry Officer in his report had exonerated the applicant of the charges. The learned counsel thereafter invited our attention to the order of punishment. The said order has been issued on a prescribed cyclostyle proforma. After the <sup>deletions</sup> ~~operations~~ were carried out in the said proforma what emerges is that the Disciplinary Authority agreeing with the Inquiry

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142/2

Officer Report has held that the Article of Charges <sup>are</sup> proved. ~~As~~ noted hereinabove the Inquiry Officer had exonerated the applicant. Thus there is no escape from the conclusion that the Disciplinary Authority while passing the order of punishment had not applied its mind to the circumstances. He states that Inquiry Officer Report ~~have~~ been carefully considered and he agrees with the findings and still surprisingly takes the view that the charges <sup>are</sup> proved. The Learned counsel for the respondent on the other hand submitted that the Disciplinary Authority had considered the relevant circumstances and evidence on record, and had passed an order copy of which has been annexed as Annexure RA-I to the counter affidavit. The learned counsel for the applicant submitted that this document had not been furnished to the applicant at any time. Even after going through this document which <sup>is stated to be for</sup> ~~approves~~ the order passed by the Disciplinary Authority, we are unable to agree <sup>that therein</sup> ~~with~~ Disciplinary Authority <sup>has shown</sup> ~~disagreement~~ with the specific conclusion reached by the Inquiry Officer. In any view of the matter even if the order passed by the Disciplinary Authority copy of which is at Annexure RA-I disagreeing with the Inquiry Officer Report, then the Principle of Natural Justice required that the copy of the findings of disagreement should have been communicated to the applicant so as to afford him reasonable opportunity. The learned counsel for the respondent urged that the Appellate Authority has considered the circumstances and the pleas raised by the applicant, and had also afforded personal hearing to him. Precisely the submission is, since the order of Disciplinary Authority has merged with the Appellate Authority <sup>even if any</sup> and there is ~~no~~ illegality in the order <sup>of</sup> by the ~~Appellate~~ <sup>Disciplinary</sup> Authority, the order passed by the Disciplinary Authority may not be interfered with. We are unable to agree. The

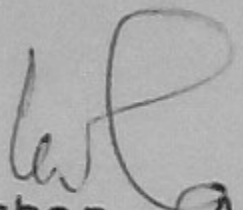
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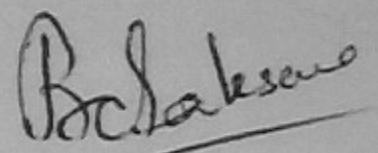
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42/13

illegality in passing of the impugned order which has been pointed out hereinabove was required to have been considered and taken note of by the Appellate Authority, while exercising the appellate jurisdiction under Rule 22 of the Railway Service Disciplinary Rule. <sup>Because of</sup> ~~Since~~ the non application of mind and further illegalities noted hereinabove we are not impressed to hold that the same <sup>stood</sup> ~~was~~ rectified by order passed by the Appellate Authority ~~Since~~ <sup>The</sup> order of reversion is quashed, the applicant however, will not be entitled to back wages, but will be deemed to have continued on the post and will be entitled to all other consequential benefits in the matter of seniority and promotion etc.

  
Member - A

  
Hon'ble V.C.

Arvind.