

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 25th DAY OF April, 1996

Original Application No. 1673 of 1992

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. S. DAS GUPTA, MEMBER(A)

R.E. Giri S/o Deo Nandan Giri
R/o Railway Colony, Sector 10, II/3
Obera Dam, P.O. Panari, Distt. Sonbhadra (U.P.)

... Applicant

BY ADVOCATE SHRI K.S. SAXENA

Versus

1. The Union of India, Through the General Manager, Eastern Railway Fairlie Place, Calcutta
2. The Additional Divisional Railway Manager (2) Eastern Railway, Dhanbad
3. The Senior Divisional Mechanical Engineer (C&W), Eastern Railway Dhanbad
4. The Divisional Mechanical Engineer Eastern Railway, Chopen Distt. Sonkhadre

2. Respondents

ORDER (Reserved)

JUSTICE B.C. SAKSENA, V.C.

Earlier to the present OA the applicant had filed an OA no. 551/88 against an order of punishment of removal from service passed by the Divisional Mechanical Engineer (C&W) Chopen. The said order of punishment was dated 15-3-85. In the said OA the applicant had stated that though he had filed an appeal before the Departmental Authority and has been waiting for its disposal but it has not been disposed of. The respondents in their counter

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in the said OA had denied having received copy of any appeal. In view of the fact that the applicant was prepared to give another copy of appeal, the said OA was disposed of with a direction " that the applicant may give another copy to the Railway Administration i.e. to say the proper authority within a period of 3 weeks and the Appellate Authority are directed to dispose of the same within the next another six weeks taking into consideration the pleas of the applicant as well as the fact that even though the ~~exparte~~ inquiry to ^{ok} place but Enquiry officer's report was given to the applicant and filed objections against the proceedings of the finding of the Enquiry Officer. The appeal shall be disposed of on merit within the period mentioned above"

2. After the said decision in the OA the applicant through his representation dated 4.2.92 submitted a copy of appeal dated 27.5.88. Through letter dated 11.5.92 a detailed order has been passed by the Appellate Authority. It also shows that personal hearing was afforded to the applicant on 31.3.92 and again 16.4.92 alongwith a defence helper. Against the said order the applicant filed a review application to the Divisional Railway Manager. The Divisional Railway Manager passed a detailed order which is contained in Annexure 1.

3. The applicant has challenged the punishment order, the appellate order and the order passed by the reviewing authority.

4. We have heard the learned counsel for the parties.

5. The learned counsel for the applicant has submitted that the applicant had been ~~swarajmawithxa~~ furnished with a copy of the Enquiry Officer's report along with the punishment order and the applicant had been thus denied the chance to ~~meet~~ the findings recorded by the Enquiry

Officer. The punishment order is dated 15.5.85. In the earlier OA the applicant had challenged the order of punishment. As noted hereinabove, at the hearing of the said OA the applicant only raised the plea that his appeal before the Appellate Authority has remained undisposed of and necessary directions in that behalf were given by a Division Bench in its order dated 14.1.92. The punishment order therefore remained operative and had not been set aside. The applicant cannot now be permitted to assail the order of punishment through this O.A.

6. The learned counsel for the applicant next submitted that the Appellate Authority has not acted as per Paragraph 22(2) of the Railway Servants (Discipline & Appeal) Rules. We have gone through the order passed by the Appellate Authority and we are not persuaded to hold that the said order does not meet the requirements of Rule 22(2) of the Discipline and Appeal Rules. The Appellate Authority had taken into consideration all the necessary factors enumerated in the said Rule. The Appellate order therefore, calls for no interference.

7. The learned counsel for the applicant lastly submitted that the order passed by the Reviewing Authority is non-speaking. He submitted that the Reviewing Authority failed to marshall the facts established as to how the defence submitted by the applicant was not satisfactory. We have perused the order passed by the Reviewing Authority. The Reviewing Authority has observed that the applicant instead of replying to the charges started using delaying tactics writing letters to give him copies of documents without mentioning the list of documents etc. He also delayed even the nomination of defence helper. The Reviewing Authority also came

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came to the conclusion that the applicant has been non-co-operative through out the proceedings of the case although adequate opportunities were given to defend his case to him. Neither he nor his defence helper attended the inquiry and the same therefore was concluded ~~Ex parte~~. The Reviewing Authority has ~~been~~ held that the charges have been proved beyond doubt and thus it has upheld the order of punishment and also the order passed by the Appellate Authority.

8. No other point has been urged. The O.A. lacks merit and is dismissed accordingly. Cost easy.

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MEMBER(A).

B. S. S. S. S.
VICE CHAIRMAN

Dated: April. 25/1996

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