

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 28th day of August 2000.

Original Application No. 240 of 1992.

CORAM :-

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

Hon'ble Mr. S. Biswas , Member (A).

K.D. Mishra S/o Late O.D. Mishra
R/o 50/1, Gauri Nagar Dharmshala Road
Hardoi.

..... Applicant.

Counsel for the applicant:- Sri H.C. Shukla.

V E R S U S

1. Union of India ,through General Manager (P)
Baroda House , New Delhi.
2. Divisional Railway Manager, Northern Railway
Moradabad.
3. Divisional Supdt. Engineer (C)
Moradabad Division, Moradabad.
4. Divisional Engineer, Head Quarters
Northern Railway, Moradabad.
5. Divisional Engineer, IIIrd,
Northern Railway, Moradabad.

..... Respondents.


Counsel for the respondents:- Sri P. Mathur

O R D E R (Oral)

(By Hon'ble. Mr. R.R.K. Trivedi, V.C.)

By this application under section 19 of Administrative Tribunals Act 1985, ^{applicant has} challenged ^{which} the order dt. 30.10.90 passed by respondent No. 5, Divisional Engineer III, Northern Railway Moradabad, has removed the applicant from the post of clerk after concluding the disciplinary proceedings. This order has been confirmed by appellate authority i.e. Divisional Engineer, Head quarters, Northern Railway, Moradabad. Learned counsel for the applicant has submitted that order dt. 30.10.90 was passed against applicant exparte and he was not provided reasonable opportunity to defend himself. ~~Mentioning~~ ^{the} documents which he demanded and which were necessary for defence were not provided to the applicant. It has also been submitted that grievance was placed before the appellate authority, ^{but} ~~and~~ the appeal of the applicant was dismissed without showing any reason. Appellate order ~~which~~ ^{reads} as under :-

"No new facts have been brought forward by sri K.D. Mishra. The punishment already awarded will stand. The appeal is rejected."

2. In our opinion the order of the appellate authority does not ^{to} satisfy the legal requirements. Appellate authority is required to examine all the charges, the material produced in support of charges and have ^{to examine the} ~~been extent~~ punishment ^{awarded against} of charges. There is no discussion on any ^{of points in the} ~~account of~~ appellate order. Right of appeal is ^{an} important right.

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3. In our opinion the order of appellate authority can not be sustained. For the reasons stated above this application is partly allowed. The order of the appellate authority dt.18.06.92 is quashed. Appeal of the applicant ^{before the} appellate authority is restored and shall be considered and decide within three months from the date a copy of order ^{is} placed ^{by} before ^{the appellate authority} respondents.

4. There will be no order as to costs.


Member(A)


Vice-Chairman.

/Anand/