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Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 1479 of 1993

Allahabad this the 6th day of June 1997

Hon'ble Dr. R.K. Saxena, Member (J)  
Hon'ble Mr. S. Dayal, Member (A)

Sri Brij Bihari Srivastava son of Sri N.P. Srivastava  
aged about 45 years, Resident of 171B No-1, Railway  
Colony, Subedarganj, District Allahabad.

Applicant

By Advocate Sri O.P. Gupta

Versus

1. Assistant Electrical Engineer, Northern Railway,  
D.R.M. Office, Allahabad.
2. Divisional Railway Manager, Northern Railway, D.R.M.  
Office, Allahabad.
3. Union of India through General Manager, Northern  
Railway, Baroda House, New Delhi.
4. Senior Divisional Electrical Engineer(General),  
Northern Railway, D.R.M. Office, Allahabad.

Respondents

Shri A.K. Shukla, Advocate

O R D E R

By Hon'ble Dr. R.K. Saxena, Judicial Member

The applicant - Brij Bihari Srivastava  
has approached the Tribunal to seek the relief that  
the punishment awarded on 28.7.1993, be quashed and the  
appellate order dated 04.10.1993 be also quashed.

2. The facts giving rise to this application  
are that the applicant was working as senior clerk



under the respondents. A charge-sheet dated 08.6.1989 was served on him with the allegation that copper ware was stolen because of his negligence. The charge was denied and the disciplinary authority recorded the order of punishment on 29.8.93 whereby his pay was reduced to Rs.1200-00 in the grade of Rs.1200-2040/- for 3 years. It was also mentioned that after the expiry of currency of punishment, he would be put back on proper pay. On appeal, the punishment was upheld. Feeling aggrieved, this O.A. has been filed. The grounds taken are that the charge-sheet of minor penalty was served. No inquiry was conducted and the punishment of major penalty was awarded to him.

3. The respondents opposed the O.A. It is admitted that the applicant was given a charge-sheet of minor penalty and he was reduced at the pay of Rs.1200/- in the grade of Rs.1200-2040/- for 3 years and such a punishment is only minor one. It is also contended that there is no merit in the case.

4. The applicant filed rejoinder in which those very facts which were mentioned in the O.A., were restated.

5. We have heard the learned counsel for the



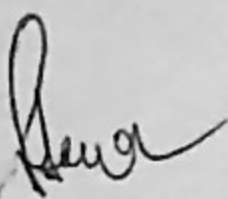
6. There is no dispute that a charge-sheet in the form which is meant for minor penalties, was given to the applicant. It is also admitted that no inquiry was held and penalty of reduction of the salary was passed. It is contended that the punishment which was awarded to the applicant was of minor penalty. It is, therefore, necessary to see if the reduction of pay amounts to minor penalty or major penalty. Rule 6 of the <sup>Discipline and Appeal</sup> Railway Servant Rules 1968 lays down two kinds of penalty, minor penalty and major penalty. First five ~~censure~~, withholding of promotion, recovery of pay, withholding of privileges of passes and withholding of increments of pay, are categories under the heading minor penalties. Reduction to the lower stage in the time scale of pay for a specified period and reduction to the lower stage in the time scale of pay, grade, post or service, are given under the headings of major penalties. The impugned order in the present case before us is of reduction to the lower stage in the time scale of pay for a definite period of 3 years. Thus, the penalty which was awarded to the applicant is major penalty. This major penalty cannot be imposed without giving a proper charge-sheet and without holding an inquiry. Thus, the order of punishment recorded by the disciplinary authority and upheld by the appellate authority, is not sustainable

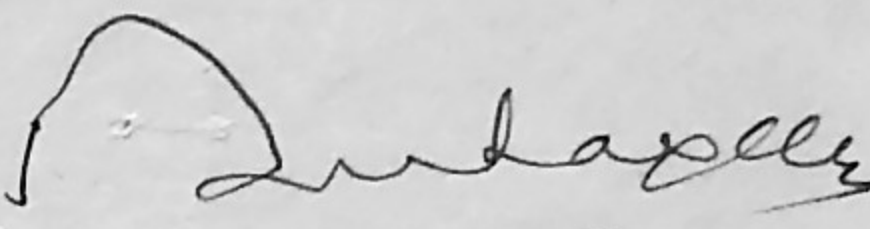


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in law. The applicant, therefore, succeeds. The O.A. is allowed and the order of punishment is set aside. The respondents, if they so desire, may proceed with the inquiry after furnishing the proper charge-sheet and holding inquiry accordingly. to rules. No order as to costs.

  
Member ( A )

  
Member ( J )

/M.M./