

(12)

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1673 of 1994

Allahabad this the 04th day of April, 2002

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Mr. C.S. Chadha, Member (A)

GOKARAN NATH DWIVEDI, Son of Late Sri R.C. Dwivedi,
resident of 65-YZ, Railway Colony, 7th Avenue,
Allahabad. Applicant

By Shri G.N. Dwivedi (in person)

Versus

1. The Union of India through the Chairman,
Railway Board, Rail Bhawan, New Delhi.
2. The General Manager, Northern Railway, Baroda
House, New Delhi.
3. The Divisional Railway Manager, Northern Railway,
Allahabad.
4. The Divisional Traffic Superintendent, Northern
Railway, Tundla.

Respondents

By Advocate Shri P. Mathur

ORDER (Oral)

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

By this O.A. filed under Section 19 of
Administrative Tribunal Act, 1985, the applicant
has challenged the orders of punishment dated
02.06.87 (annexure A-18), 04.06.87 (annexure A-19),
21.11.88 (annexure A-20) and 14.06.89 (annexure A-21).
The applicant has also challenged the order dated

....pg.2/-



(13)

24.01.94 by which the appeal of the applicant was dismissed as time barred. Submission of the applicant is that though the memo of charge was served on the applicant regarding the aforesaid penalties and he submitted his reply, but thereafter the orders of punishment were never communicated to the applicant and he could not file appeal. This fact was pleaded before the appellate authority but appellate authority has rejected the appeal as time barred without recording any finding on the question as to whether the order of punishment were communicated to the applicant or not. It is also submitted that the order of appellate authority is short and cryptic and does not give reasons.

2. Shri Prashant Mathur, learned counsel for the respondents on the other hand submitted that the orders of punishment became effective from June, 1989 and as the increments were not paid to the applicant, he had knowledge of the orders of punishment and the plea of the applicant that he has no knowledge, cannot be accepted. Shri Prashant Mathur has also placed before us the documents dated 10.11.1987 filed as annexure C.A.-1 and C.A.-2 to show that the punishment orders were received by the applicant. The annexure C.A.-3 is the Letter Delivery Book by which the punishment notice dated 21.11.1988 was served on the applicant. We have considered the submissions made

3. We have considered the submissions made before us by counsel for the parties. However, the submission made on behalf of the respondents cannot

R

(14)

be accepted for the for the reason the appellate authority was required to record the finding that the applicant had knowledge of the order before dismissing it as time barred. The applicant before us has denied ~~the~~ his signatures on C.A.-1, C.A.-2 and C.A.-3. The appellate authority should have considered ~~these~~ documents and recorded a positive finding as to whether the applicant had knowledge of the order ^{or} not before dismissing the appeal. This legal obligation has not been discharged by the appellate authority, therefore, the orders cannot be sustained.

4. Another appeal of the applicant has been dismissed by order dated 19.10.93 only saying that he was habitual offender and appeal disallowed. In our opinion, for every offence or misconduct, an employee is dealt ^{with} separately. The previous conduct and punishment awarded could be relevant consideration for quantum of punishment, but appeal could not be dismissed on the ground that his previous history was not good. The appellate authority committed serious mistake in dismissing the appeal. This order cannot also be sustained.

5. For the reasons stated above, this O.A. is allowed in part. The orders dated 19.10.93 (annexure A-29) and order dated 24.01.94 (annexure A.28) are quashed. The appeals of the applicant shall stand restored before the appellate authority and shall be considered and decided in accordance with ^{and the rights of} law ^{in view} of the above mentioned observations.

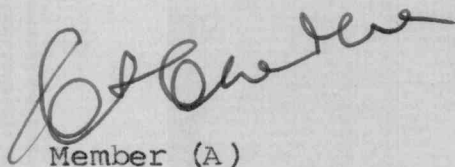
As the appeals

[Signature]

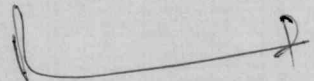
15

:: 4 ::

As the appeals are very old, they shall be decided within 4 months from the date of communication of this order. There shall be no order as to costs.



Member (A)



Vice Chairman

/M.M./