

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**ADDITIONAL BENCH, ALLAHABAD**

*This the 1<sup>st</sup> day of April 2002*

*Original Application No. 1020 of 1994*

**CORAM:**

**HON.MR.JUSTICE R.R.K.TRIVEDI, V.C.**

**HON.MR.C.S.CHADHA, MEMBER(A)**

*Brij Behari Pathak, Son of Late  
 Shri laxmi Pathak, R/o Qr.No.1353-D,  
 Manas Nagar, Mughalsarai, District  
 Varanasi ... Applicant  
 (By Adv: Shri M.K. Upadhyay)*

*Versus*

1. *Union of India through  
 General Manager, Eastern Railway  
 Calcutta*
2. *The Chief Engineer, Eastern Railway  
 Calcutta.*
3. *The Divisional Railway Manager  
 Eastern Railway, Mughalsarai*
4. *The Senior Divisional Engineer,  
 Eastern Railway, Mughalsarai ... Respondents  
 (By Adv: Shri A.K.Gaur)*

*ORDER(Oral)*

**JUSTICE R.R.K. TRIVEDI, V.C.**

*By this OA u/s 19 of A.T. Act 1985 applicant has challenged  
 the order dated 17.9.1992 passed by Disciplinary Authority by  
 which he awarded penalty to applicant by reducing him two*

*[Signature]*

grades to lower stage of lower time scale of pay of Rs.1400 per month in the scale of Rs.1400-2300 permanently, on conclusion of the disciplinary proceedings. Against this order applicant filed appeal, which has been dismissed by Appellate Authority, by order dated 7.6.1993 (Annexure 2). The Appellate Authority though maintained the order that the charges against the applicant are proved but he reduced the punishment awarded permanently to a period of five years (Cumulative).

The facts giving rise to the aforesaid case are that at the relevant period i.e. in January 1989 applicant was serving as Office Superintendent Grade I (Stores). He was served with a memo of charge-dated 12.10.1990. The allegation against the applicant was that though he was relieved from the charge of the Store he continued his habit of preparing requisitions of several materials and getting signatures of Assistant Engineers and others thereon along with ~~■~~ the D.O. from their side prepared by him. In the month of January 1989 applicant approached V.K. Srivastava Stenographer to Senior Divisional Engineer to type four D.O.s each in two copies drafted by him in his own handwriting from the side of Shri S.K. Mitra Assistant Engineer there and one D.O from the said Assistant Engineer-I Shri V. Mombran, all addressed to Shri R.N. Roy Chaudhary, SSOP. Thus, he prepared this plot to get it typed and took it for AEN's signatures on this D.O. along with some other requisitions with malicious and fraudulent intentions of false requisitions to help his own men and to <sup>realize</sup> ~~extend~~ huge money from them by giving them undue favour. The applicant was also charged that he by misusing official position and wasting the valuable time of stenographer as well as his own.



*The applicant challenged the memo of charge in this Tribunal by filing OA No.361/91. The OA was allowed, the memo of charge was quashed on the ground that it was vague and the respondents were given liberty<sup>to serve a fresh memo</sup> of charge in accordance with law. The fresh memo of charge-dated 19.6.1991 was served on applicant on the basis of which disciplinary proceedings were concluded and as usual Enquiry officer was appointed. He found the charges against the applicant proved and submitted report. The Disciplinary Authority agreed with the report submitted by the Inquiry officer and passed the punishment order as mentioned above which has been confirmed by the Appellate Authority with modification in the punishment as stated above.*

*We have heard Shri M.K. Upadhyaya learned counsel for the applicant and Shri A.K. Gaur learned counsel appearing for the respondents and have perused the record.*

*The learned counsel for the applicant has submitted that the applicant was not served with the complete inquiry report along with show cause notice. Only findings and reasons were served on the applicant. This way, he was seriously prejudiced in making his submissions against the inquiry report and the orders are liable to be quashed on this ground.*

*The second submission is that the officers on whose behalf the D.O. letters were allegedly prepared by the applicant were not examined by the inquiry officer and in absence of their denial it could not be said that applicant committed any*



*misconduct as he being a subordinate could prepare D.O. letters at the instructions given even though applicant was working in another capacity.*

*Thirdly it has been submitted that the Appellate Authority and the Revisional Authority have not considered the aforesaid material aspects of the case.*

*Learned counsel for the respondents on the other hand, submitted that order of the Appellate Authority is a detailed order and he has considered each and every point raised by the applicant in his appeal. The charges against the applicant have been found proved by the Inquiry officer <sup>no ground is made out</sup> and this Tribunal calls for no interference.*

*We have carefully considered the submissions of the counsel for the parties. The learned counsel for the applicant has assailed the impugned orders mainly on the ground that the copy of the Inquiry report served on him was not complete copy but only findings were submitted. Referring Rule 9 (25) of Discipline & Appeal Rules 1968, The learned counsel has submitted that the inquiry report is required to be prepared by the statute in a particular manner but the complete report was not served on the applicant. He has also placed before us the memo of revision in which this point was taken by the applicant before revising authority. However, in our opinion, the applicant has not suffered any prejudice on this ground though copy of the inquiry report served on the applicant was incomplete. We have seen the reply submitted. It runs over 16*

pages and covers almost each point regarding witnesses and documents etc. It shows that applicant did not suffer any prejudice on account of service of incomplete report of the Enquiry officer. At Appellate stage this point was not raised. It was raised at revisional stage. In the circumstances, no interference is called for.

The second submission of Shri Upadhyा is that the officers on whose behalf D.O letters were prepared by the applicant were not examined and the charge could not be said to have been proved by any cogent evidence. This submission has also no force. The defence of the applicant before the Disciplinary Authority was of complete denial of preparing D.O letters. In view of such defence the examination of the Officers could not be of any consequence. ~~The fact that applicant had prepared D.O. letters. In view of such defence the examination of the officers could not be of any consequence.~~ The fact that applicant had prepared D.O. letters in his own handwriting and handed over to Steno V.K. Srivastava for being typed has been fully proved against him. It has also come on record that such D.O. letters were used for beneficial gains. The Appellate Authority has considered the case in detail and thereafter dismissed the appeal. The Revisional Authority simply agreed with the Appellate Authority

In the circumstances, we do not find any error in the orders impugned in this OA. The OA is dismissed accordingly with no



*order as to costs.*

*C. G. G. G.*  
MEMBER(A)

*L*  
VICE CHAIRMAN

*Dated: 1<sup>st</sup> April, 2002*

*Uv/*