

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 25th day of August, 2000.

Original Application no. 1165 of 1994.

Hon'ble Mr. S.K.I. Naqvi, Judicial Member

Hon'ble Mr. M.P. Singh, Administrative Member

Nageshwar Prasad,

S/o Late Shri Pathru Ram,

At present working as Electrical Signal Maintainer,
Grade III at Karchana R/o Railway Quarter No. 3 A,
Railway Station, Karchana Distt. Allahabad.

... Applicant.

C/A Sri S. Agarwal

Versus

1. The Union of India, New Delhi
through the General Manager, N. Rly.,
Baroda House, New Delhi.
2. Senior Divisional Signal, Tele Communication,
Engineer, Northern Railway, Allahabad.
3. Divisional Signal Telecommunication Engineer,
N. Rly., Allahabad.

... Respondents

C/Rs. Sri A. Tripathi

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O R D E R

Hon'ble Mr. M.P. Singh, Member-A.

The applicant has filed this OA under section 19 of the Administrative Tribunals Act, 1985 against the order dated 15.01.93 passed by the disciplinary authority.

2. The brief facts of the case are that the applicant was appointed as Elec. Signal Maintainer Gr-III in N. Rly., on 29.09.66. Subsequently he was promoted to ESM Gr-I in the year 1980. On 15.2.91 a Rail accident occurred at Karchana East Cabin in which 2311 UP (Kalka Mail) got derailed and the applicant was wrongly held responsible for the derailment on the basis of a report of fact finding inquiry of Commissioner, Railway Safety. Charges were framed against him and a charge sheet dated 20.01.92 for major penalty was served on him. On receipt of the charge sheet, the applicant requested the disciplinary authority for supply of necessary documents in order to enable him to submit a reply. The relevant documents were not supplied to the applicant. The DAR inquiry was conducted by the inquiry officer. After the inquiry was concluded, the applicant was visited with a penalty of reduction to the lowest grade of ESM.

3. As per the contention of the applicant, a joined note was prepared by six senior subordinates to establish the cause of derailment. According to the

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findings of the six officials (only one official expressed a desenting view), one wheel block, two distant blocks and one fish plate were found missing; deficiency of fittings and deformity in the Track was the cause of the detrailment . The comments offered by Chief Signal Engineer dated 2.11.91 also corroborated this view. According to the applicant the fact finding enquiry report on the basis of which charges were framed and punishment of reduction from grade I to grade III was imposed on him and which was thus a most material document for the purpose of defence was not supplied to him even on specific demand and hence it resulted in non-compliance of Principles of Natural Justice and denial of reasonable opportunity of defence. Applicant preferred an appeal on 26.2.93 against the order of punishment and also sent a reminder on 2.3.94 , but no decision has been taken by the respondents on his appeal. Hence he has filed this OA seeking the following reliefs :-

- i. The Hon'ble Tribunal may be pleased to allow this application and quash the order of imposition of Penalty dated 15.01.93 passed by D.S.T.E. (M) ALD reducing the A-pplicant to the lowest Grade III of ESM in Scale Rs 950 -1500 and restore him ^{to his original grade} in the scale of Rs. 1320-2040 .
- ii. The Hon'ble Tribunal may also grant consequential relief consisting in payment of defference of salary and allowances of Grade I and Grade III of ESM for the period during whch the Punishment of reduction remained in force and further promotion of Master Cruse maintainer counting

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his original seniority of Grade I.

iii. The Hon'ble Tribunal may grant any other relief or relief it deems fit and proper in the circumstances of the case.

4. The respondents have contested the case and have stated that the applicant was held responsible for accident after holding a detailed inquiry under the provisions of DAR Rules, imposed the penalty of reduction to the lower grade. C.R.S. inquiry ^{and DAR enquiry} are two independent and not inter-related, CRS inquiry report is not relevant to this case and only DAR inquiry report has been considered as the basis of DAR proceedings. The CRS report being a confidential document could not be used in the enquiry of the case. The order of imposition of penalty is valid as per extent rules and the applicant does not have any ground to seek relief as reasonable opportunity was given to him to defend his case. The relief sought by the applicant deserves to be rejected.

5. Heard learned counsel for the rival contesting parties and perused the record.

6. It is an admitted fact that the applicant had made a request to the respondents to supply him a copy of full text of statements along with cross examination made by inquiry officer in fact finding inquiry vide his representations dated 25.01.92 and 17.7.92 (Annexure A-3 and A-4). The respondents vide their letter

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dated 30.08.92 have rejected the request of the applicant stating that a copy of the fact finding inquiry cannot be supplied to him being a confidential document (Annexure A-6). It is a settled law by the Hon'ble Apex Court that if a Govt. servant is facing a disciplinary proceedings, he is entitled to be afforded a reasonable opportunity to meet the charges against him in an effective manner. And no one facing a departmental enquiry can effectively meet the charges unless the copies of the relevant statements and documents to be used against him are made available to him. In the absence of such copies, the concerned employee cannot prepare his defence, cross examine the witness, and point out the inconsistencies with a view to show that the allegations are incredible. In this case the respondents assumed an intransigent posture and refused to furnish copies notwithstanding the specific request made by the applicant twice on 25.1.92 and 17.7.92 and by his defence counsel on 20.08.92 (Annexure A-3, A-4 & A-5). In view of these facts we feel that failure to supply these documents would be tantamount to denial of reasonable opportunity to the applicant to defend himself. In the result, the impugned order dated 15.01.93 passed by the respondents is violative of Article 311 (2) of the Constitution of India inasmuch as the applicant has been denied reasonable opportunity of defending himself and on that account is liable to be set aside.


7. In the light of the above discussion, the
QA is allowed and the order dated 15.01.93 passed

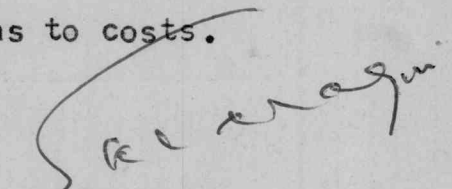
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by the respondents is quashed and set aside. The respondents are directed to grant all consequential benefits to the applicant within a period of 4 months from the date of communication of this order. However, it would be open to the respondents to conduct an enquiry a_fresh after supplying the documents to the applicant.

8. There shall be no order as to costs.


Member-A


Member-J

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