

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No.272/1995

WEDNESDAY, THIS THE 8TH DAY OF MAY, 2002

HON'BLE MR. C.S. CHADHA .. MEMBER (A)

HON'BLE MR. A.K. BHATNAGAR .. MEMBER (J)

Zafar Sadiq,
Aged about 39 years,
S/o Anwarul Haq,
Sub Loco Cleaner,
Northern Railway,
Bareilly.

... Applicant

(By Advocate Shri R.K. Nigam)

Versus

1. Union of India, through
General Manager,
Northern Railway,
Baroda House, New Delhi.
 2. Senior Divisional Mechanical Engineer,
Northern Railway, Moradabad.
 3. Assistant Mechanical Engineer,
Northern Railway,
Moradabad.
- ... Respondents

(By Advocate Shri V.K. Goel)

O R D E R - (ORAL)

Hon'ble Mr. C.S. Chadha, Member (A):

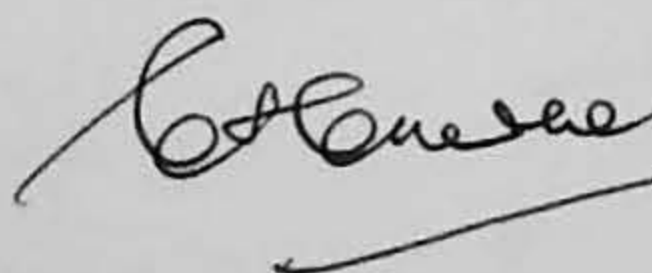
The case of the applicant is that because of an inquiry against him, he was dismissed from service vide order dated 22.6.1994. He preferred an appeal against the said and vide Annexure-2, his appeal was also rejected on 13.9.1994. It transpires that he filed a revision, but did not mention the same while filing the O.A. and the revision was turned down on the ground that it was time barred.

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2. The learned counsel for the applicant has challenged the dismissal and the appellate orders on the ground that they are both non speaking orders. We have no doubt in our mind that the appellate order is a ridiculous order and it only shows that the official of the Railways who has passed this order has no knowledge about the procedure to be adopted in such appeal, because the said order states "Appeal considered. There are no grounds for considering a waiver or reduction in punishment hence appeal is rejected and penalty imposed is allowed to stand".

3. We are afraid that the Appellate Authority must apply its mind to every issue raised and give reasons why the explanation or the ground raised by the appellant are not sustainable. Therefore, in our mind, there is no doubt that the appellate order needs to be quashed.

4. The dismissal order is on a printed form which states "I do not find your representation to be satisfactory due to the following reasons as Annexure-'A'". I therefore hold you guilty of the charge". A copy of the said Annexure-A is not filed with the O.A. The learned counsel for the respondents states that since no averment has been made that such Annexure-A did not accompany the dismissal order, it cannot be assumed that reasons are not recorded. Although, there is some force in what the learned counsel for the respondents states, we find that in the O.A. the applicant has clearly averred that the order of dismissal is a non speaking and cryptic. In their counter affidavit, the respondents have not mentioned what details have been



given in the dismissal order, and therefore the respondents have not been able to sufficiently rebut the non-speaking nature of the order.


5. The learned counsel for the respondents also raised an objection that since the revision petition had not yet been decided when he filed the O.A. and since the revision petition was rejected as time barred, he cannot claim any relief from this Tribunal. We are afraid that we cannot agree with this view, because while the revision petition was pending, he clearly challenged the appellate order on the ground that it was a non speaking order. He could certainly have challenged the appellate order without going for revision. At most, at the time of admission of the case, an objection could have been raised that the O.A. was pre-mature. But, now that the case has been admitted and posted for hearing, we are not inclined to reject the O.A., that too such a serious case merely on such a technicality. The learned counsel for the respondents states that the appellate order stands merged with the revision order and since the revision order has not been challenged, no remedy can be granted. We would have agreed to this submission had the revision order been passed on merits. The appellate order would have subsumed ~~with~~ ^{be in} the revision order only if it had been supported by the revision order of the competent authority. The rejection of the revision as time barred does not mean that the revision order has been passed on merits. We certainly can look into the illegality of a non speaking appellate order and apparently a non speaking dismissal order.

[Signature]

that he may grant. The O.A. is disposed of accordingly.
No order as to costs.

8. A copy of this judgment may be sent to the
Railway Board for guidance in future cases.


MEMBER (J)


MEMBER (A)

psp.