

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD

Dated: Allahabad, this 11th day of January, 2001

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. S.K.I. Naqvi, J.M.

Original Application No. 706 of 1995

Jagdish Babu Dubey,  
Senior Electric Foreman (Power),  
Northern Railway,  
Mirzapur (U.P.).

..... Applicant  
(In person)

Versus

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

..... Respondents  
( By Advocate Sri A.K. Gaur)

O\_R\_D\_E\_R

(Open Court)

( By Hon'ble Mr. S. Dayal, A.M.)

This application, under Section 19 of the  
Administrative (Tribunals) Act, 1985 has been filed  
for setting aside the order of the appellate authority  
dated 6th June, 1995 and the order of the disciplinary  
authority dated 8.12.1994. The applicant was served  
a minor penalty charge-sheet dated 2.8.1994, in which

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the following charges were made:-

■ Shri J.B. Dubey while working as SEFO (P)/MZP has delayed the execution of sanctioned work of electrification of Rly. Quarters at MZP and CAR for which he was given a target by 10/4/94 vide this office Confidential letter No.186- Elec/ Dis-plea/ ALD/94/1728 dt. 25/3/94 and one more chance upto 23/5/94 vide Confidential letter No.186- Elec/Dis-plea/ALD/94 dt. 11.5.94. He was asked to prepare Schedule of quantity and also place indents for fans and F.L. Tubes. The delay has resulted in non-electrification of qtrs. as well as misuse of electricity by unauthorised method.

That despite instruction issued to him by AEE/G/ ALD as well as by the undersigned apart from the written instruction conveyed by Electric Control to communicate Electric consumption for a week to Electric Control and also cumulative for the whole month separately, he has failed to give the required information till 06/7/94 and thus Sh. J.B. Dubey failed to comply with the instructions of AEE/G/ ALD and the undersigned. Despite the first written instruction was given vide letter No.186- Elec/Displ/ AD/94 dated 11th May, 1994 to comply with instructions immediately. Thus, has resulted in failure to monitor consumption of MZP on day today basis because energy consumption of MZP has suddenly increased as it evident from Confidential letter to SEFO/MZP No.186-Elec/Displ/ALD/93 dated 16.12.93.

By the above act and omission Sri J.B. Dubey has failed to maintain absolute devotion to duty and acted in a manner of unbecoming Railway Servant and so contravened Rule 3 (ii) (iii) of Rly. Service Conduct Rule, 1966."

He was imposed punishment of reduction of 3 steps in the same grade for 3 years temporarily by the order of disciplinary authority dated 30.12.1994. The applicant filed an appeal, which was disposed of by the appellate authority after hearing the applicant by an order dated 6th June, 1995.

2. The arguments of the applicant and Sri A.K. Gaur, counsel for the Respondents, have been heard.

3. The applicant has drawn attention to his Memo of Appeal, in which he has contended that the

that the punishment of reduction by 3 steps in the same grade for 3 years is a major penalty and the procedures for major penalty have not been followed in this case. He has also alleged that the allegations made in the charge-sheet are vague. He has also mentioned in the Memo of Appeal that the defence of the applicant was not considered and the disciplinary authority passed an order without adequately considering the defence of the applicant. He has also drawn attention to the letter of the Addl. Divisional Railway Manager, by which the applicant was allowed to remain present with his defence helper before the appellate authority. But, he was denied the opportunity to keep defence helper present.

4. We have gone through the order of the appellate authority, which reads as follows:-

" After going through the case in detail, I find that Sri Dubey is guilty of the charges imposed and he has been correctly and adequately punished.

Appeal is, therefore, rejected."

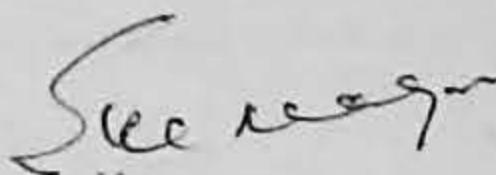
Considering the facts of this case and the contention of the applicant, we are of the opinion that the appellate authority has not passed a speaking order. The learned counsel for the Respondents has contended that the appellate authority <sup>was</sup> in agreement with the conclusions of the disciplinary authority and, therefore, no reasons were required to be given. However, the appellate authority is charged with under Rule 22(2) with the examining of the compliance of the procedures laid down in the rules and whether the findings of the disciplinary authority are warranted by evidence on

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record and whether the penalty was inadequate or severe. The disciplinary authority has neither considered the points raised by the applicant nor given reasons in the order for not accepting the points raised by the applicant in his memorandum of appeal.

5. The application is partly allowed with a direction to the appellate authority to consider the appeal and hear the applicant after affording an opportunity to the applicant to be present with his defence helper and dispose of the same by a speaking order within a period of 3 months from the date of service of the copy of the order. No order as to costs.

   
J.M. A.M.

Nath/