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OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 9th day of January, 1997

Original Application No. 969 of 1995

CORAM:-

Distt-Kanpur

Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. T.L. Verma, J.M.

Latoori Singh
S/o Shri Mulu Singh
T.C.M. (III) N.Rly.
Rura, Distt-Kanpur.
(By Sri KS Saxena, Advocate) Applicant

Versus

1. The Union of India,
through the General Manager
Northern Railway,
Baroda House,
New Delhi.
2. The Senior Divisional Sig. &
Tele Communication Engineer (Sr.DSTE), Northern
Railway, Allahabad.
3. The D.S.T.E.
Northern Railway,
Aligarh.
4. The A.S.T.E.
Northern Railway,
Tundla.

(By Sri Prashant Mathur, Advocate)

. Respondents

ORDER (Oral)

By Hon'ble Mr. S. Das Gupta, A.M.

This application has been filed challenging the order dated 23/24-1995 by ^{SKL}ASTE/N.Rly./Tundla, had imposed penalty of reduction to the lower stage of pay on the applicant. He has prayed for quashing of the impugned order and for restoration of the salary to Rs.1250/- instead of Rs.980/-.

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2. The applicant has taken various grounds for challenging this impugned order. All these points need not be stated in detail. The case can be decided only on the short point that the applicant was not given a copy of the inquiry report and an opportunity before the penalty was imposed. This point was ~~clearly~~ ^{fairly} conceded by the learned counsel for the respondents. As this denial of opportunity is in contravention of the law laid down by the Hon'ble Supreme Court in the case of Ramjan Khan, the impugned order is liable to be quashed on that ground alone.

3. ~~The~~ Another ground taken by the applicant is that the impugned order was passed by ASTE, who was not competent to pass this order as minor penalty of reduction in pay can be imposed on him being a Class III employee either by the DSTE or ^a junior scale officer provided he was having independent charge. The contention of the applicant is that the ASTE/Tunla, who had imposed the penalty on him was not holding independent charge.. This, however, is not conceded by the learned counsel for the respondents.

4. In view of the foregoing, we quash the impugned order dated 23/24-4-1995. We, however, give liberty to the respondents to proceed ~~a~~ fresh against the applicant if they so desire, but in such a case, the various provisions contained in the Discipline and Appeal Rules should scrupulously be followed. They may also

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examine whether the ASTE who had imposed penalty is competent in terms of the schedule of the DAR to impose penalty on the applicant and if not, any penalty that may be imposed on the applicant ~~that~~ may be only by the competent authority. The parties shall, however, bear their own costs.

J. H. Mame
Member (J)

W. L. C.
Member (A)

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