

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 30th day of July 2001.

Original Application no. 1045 of 1995.

Hon'ble Mr. Justice RRK Trivedi, Vice-Chairman

Hon'ble Maj Gen KK Srivastava, Administrative Member

PK Pandey, S/o late B. Pandey,  
working as Diesel Driver (Goods),  
under loco Foreman, Eastern Railway, Chopan,  
Distt. Sonbhadra.

... Applicant

C/A Sri Anand Kumar  
Sri CP Gupta

Versus

1. Union of India through The General Manager,  
H. Qrs Office, E. Rly., Calcutta.
2. The Senior Divisional Mechanical Engineer (P),  
E. Rly., DRM Office, Dhanbad.
3. Sri PK Mishra, Divisional Mechanical Engineer,  
E. Rly., Maldah (inperson) (WB)
4. The Divisional Mechanical Engineer/Asstt. Mech.  
Engineer, E. Rly., Chopan.

... Respondents

C/Rs Sri AK Gaur

ORDER

Hon'ble Mr. Justice RRK Trivedi, VC

By this <sup>application</sup> under section 19 of the A.T. Act, 1985,  
the applicant has challenged order dated 21.7.1994  
(Annexure A-1) by which the applicant has been punished.

...2/-

by reducing the pay at Rs. 1560/- in the pay scale of Rs. 1350 - 2200 for a period of three years w.e.f. 1.5.1995. It further provides that the applicant will not earn increment during the punishment, but it shall not operate/postpone future increment on restoration.

2. Learned counsel for the applicant has submitted that against the aforesaid order of punishment, the applicant filed appeal on 4.9.1994 which is still pending and has not been decided.

3. Learned counsel for the respondents on the other hand submitted that the applicant did not file any appeal. In para 14 of the counter affidavit, it has been stated that one appeal dated 15.4.1995<sup>filed by applicant</sup> was not accepted by the office as it was not signed by official disciplinary authority ie. Assistant Mechanical Engineer, Chopan. It is also submitted that in these facts <sup>his</sup> representations were not <sup>entertained</sup>.

4. In rejoinder affidavit, the applicant has again reiterated that he filed appeal and copy of the letter dated 4.9.1994 has been filed as Annexure RA-1. The letter is hand written by the applicant himself, in which it has been stated that he has submitted memo of appeal. He also claimed personal hearing at the time of hearing.

5. Considering the totality of the circumstances, it appears that the applicant did file appeal, however, it suffered from some defects as pointed out in the counter affidavit. In such situation he ought to have been given an opportunity to rectify the error but



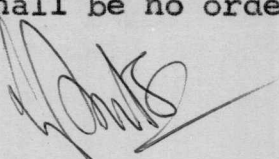


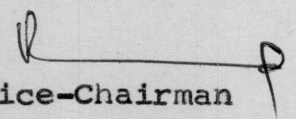
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he could not be denied the right of appeal. In our opinion the applicant is entitled to the relief to the effect that the respondents may be directed to decide the appeal.

6. The OA is accordingly disposed of finally with the direction to the respondent no. 2, Senior Divisional Mechanical Engineer (P) ., E. Rly., to decide the appeal of the applicant by a reasoned order within 3 months from the date of copy of this order is filed before him. It shall be open to the applicant to file a fresh copy of the memo of appeal referred in letter dated 4.9.1994, *along with copy of this order.*

7. There shall be no order as to costs.

  
Member-A

  
Vice-Chairman

/pc/