

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD.

Original Application No.1625 of 1999.

Allahabad this the 22nd day of September 2004.

Hon'ble Mr. Justice S.R. Singh, V.C.
Hon'ble Mr. D.R. Tiwari, A.M.

J.P. Srivastava son of Sri Uma Shankar Lal Srivastava resident of G-3/5 Rail Bihar, Colony, Rafti Nagar Phase-4, Gorakhpur presently working as Junior Engineer Grade- II, N.E. Railway, Gorakhpur.

.....Applicant.

(By Advocate : Sri S.K. Om)

Versus.

1. Union of India through General Manager, N.E. Railway, Gorakhpur.
2. Chief Track Engineer, N.E. Railway Gorakhpur.
3. Additional Divisional Railway Manager N.E. Railway, Varanasi.
4. Senior Divisional Engineer, N.E. Railway, Varanasi.
5. Divisional Engineer (Special) N.E. Railway, Varanasi.

.....Respondents.

(By Advocate : Sri D.C. Saxena)

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(By Hon'ble Mr. Justice S.R. Singh, V.C.)

Heard Sri S.K. Om learned counsel for the applicant and Sri D.C. Saxena learned counsel for the respondents.

2. The applicant was served with a charge memo dated 29.11.1996/16.12.1996, copy of which has been annexed as Annexure-1. Charged memo was served to the applicant on standard form prescribed for imposition of major penalty. The applicant, it is alleged,

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submitted his reply against the charge memo. However, it appears that the enquiry was conducted ex-parte. But enquiry report dated 07.07.1997 was sent to the applicant with covering letter dated 17.07.1997. The applicant according to the covering letter dated 17.07.1997 was to submit his reply in respect of the enquiry report through Assistant Engineer, Chhapra 'immediately'. No specific time for submission of the reply was stipulated in the covering letter. The applicant, it is not disputed, submitted his reply on 29.07.1997 but in the meantime the punishment order dated 21.07.1997 (Annexure 8) was passed thereby imposing the penalty of reduction at the lowest stage of the scale in which the applicant was working at the relevant time for the period of 40 months.

The order reads as under:

"उपरोक्त मामले में सहानभातिपूर्व विचार करते हुए निम्नलिखित आदेशित की जाती है"

कर्मचारी की वर्तमान वेतनमान में न्यूनतम पर 40 माह के लिए ग्रेर संबंधी प्रभाव से किया जाती है

मंडल हंडी नियर विशेषज्ञ
वाराणसी"

3. The applicant preferred an appeal. The Appellate Authority by its order dated 08.06.1999 enhanced the punishment in the following words:

"मैंने नीचे ग्राहक वीवास्तव, अवर अभियन्ता के केश का ध्यानपूर्वक अध्ययन किया।
दुर्घटना से संबंधित संयुक्त जांच रपट रवं कर्मचारी का ब्याव का अध्ययन करते के पश्चात्र मैं इस निर्णय पर चहूंचा हूं कि ग्राम संघटा 12 x के स्वच को दिया होने के कारण ही यह दुर्घटना घटी। श्री श्रीवास्तव इस दुर्घटना के लिए पूर्ण रूप से जिम्मेदार हैं।

अतः अनुशासनिक अधिकारी द्वारा दिये गए माह का बढ़ाकर वर्तमान वेतनमान के न्यूनतम पर 40 माह हेतु वरीयता प्रभावित करते हुए पदावन्नत किया जाता है।

मो रो प्रो इंजी॥
वाराणसी"

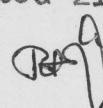
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4. The applicant then filed revision under Rule 25 of Railway Servant (Discipline and Appeal) Rules 1968. The Revisional Authority vide its order dated 04.10.1999 restored the punishment imposed by the Disciplinary Authority. Aggrieved the applicant, has preferred the instant O.A.

5. Having heard counsel for the parties, we are of the view that the orders impugned herein cannot be sustained. The applicant as stated, hereinabove, was served with the enquiry report dated 17.07.1997 and he submitted his reply within reasonable time on 29.07.1997. Disciplinary Authority was not justified in passing the order of punishment on 21.07.1997 without waiting for the reply of the applicant. Since no time limit was fixed for filing the reply against the enquiry report, the applicant could file his reply within a reasonable time. In our opinion, the matter requires to be decided a fresh after taking into reckoning the reply submitted by the applicant as against the enquiry report.

6. Applicant's counsel tried to raise certain questions regarding the procedural impropriety in the enquiry which we are not inclined to go into at the moment since the matter is to be decided by the Disciplinary Authority after taking into reckoning the reply submitted by the applicant as against the enquiry report. In case the applicant has raised any point regarding procedural irregularity in the conduct of the enquiry, the Disciplinary Authority shall go into such points as well while deciding the case a fresh pursuant to this judgment.

6. Accordingly, the O.A. succeeds and is allowed. The impugned orders dated 21.07.1997, 08.06.1999, and



4.10.1999 are quashed. The Disciplinary Authority is directed to pass a fresh order in accordance with law after taking into reckoning the reply submitted by the applicant against the enquiry report.

No costs.

P. S.
Member-A.

P. S.
Vice-Chairman.

Manish/-