

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Original Application No. 383 of 1999

Tuesday, this the 26th day of February, 2008

**Hon'ble Mr. Justice Khem Karan, Vice Chairman
Hon'ble Mr. K.S. Menon, Member (A)**

Shiv Prasad son of Shri Sakuru, resident of Village Sidhaone Para, P.O. Gokulamilkypur, District Faizabad, at present posted as Gate Keeper, Gate No. 90-C, Maitha Railway Station, Kanpur Dehat, under SSE/P. Way/II/N.Rly., Kanpur.

Applicant

By Advocate Sri Satish Dwivedi

Versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Engineer (Track), Northern Railway, Allahabad.
3. The Assistant Engineer (Track), Northern Railway, Kanpur.

Respondents

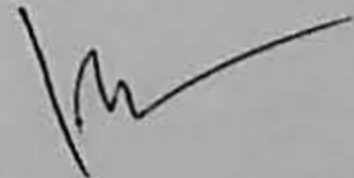
By Advocate Sri A.K. Pandey

ORDER

By Justice Khem Karan, V.C.

The applicant is challenging the Order dated 10/11-07-1998 (annexure A-1) passed by the Assistant Engineer (Track), Northern Railway, by which he has been punished with reduction to the stage of Rs.8000/- in the same pay scale for a period of 2 years with cumulative effect and also appellate order dated 30.06.1996 (annexure CA-3 to the counter affidavit) by which his appeal was rejected.

2. There is no dispute that applicant was served with a major penalty charge sheet, as back as in the year 1995 and was subjected to formal disciplinary proceedings. The charge against him was that while being posted as Gateman 28/29-10-1995, he was found inside the room whereas he should have been out side the room. He denied the charge. The Inquiry Officer, however, found him guilty and submitted his report to the Disciplinary Authority and after calling for the statement of the applicant in the context of inquiry report, impugned order of

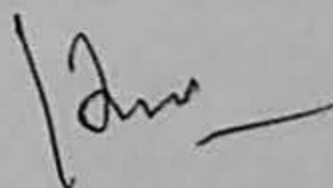


punishment dated 10/11-07-1998 was passed. He preferred an appeal on 12.09.1998 to the Divisional Engineer (Track), Northern Railway, Allahabad but the same was not disposed of for sufficient time and so the applicant filed this O.A. When the respondents came with a reply that appeal had been rejected vide order dated 30.06.1999, he got the O.A. amended, so as to assail the same.

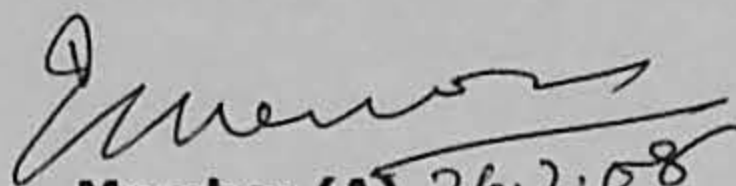
3. The respondents have filed the counter affidavit contesting the claim of the applicant.

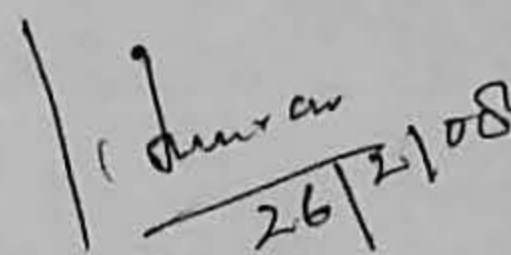
4. Sri Satish Dwivedi, learned counsel for the applicant has confined his argument to the alleged invalidity or impropriety of the appellate order dated 30.06.1999. He says though the applicant had taken a number of grounds in his appeal (memo of appeal is annexure A-12) but the Appellate Authority has disposed of the appeal without showing any application of mind. Learned counsel has taken us through grounds of appeal, as available in annexure A-12 and also through the appellate order. Though the law may not expect the Appellate Authority to give a detailed order or the Judgment disposing of the appeal but the law expects that the order passed by it should reflect due application of mind and the order passed by him should be speaking one. This is also for the reason that the same order may be scrutinized by Reviewing Authority and unless the Reviewing Authority knows as to what persuaded the Appellate Authority in dismissing the appeal, authority is not expected to objectively consider and dispose of the revision. Moreover, such orders as passed by Revising or Appellate Authority are also subject to judicial review, by the Court or the Tribunal. In absence of detailed reasons, the Court or Tribunal may not be able to effectively exercise that power. The order dated 30.06.1999 is patently non speaking, cryptic and is not sustainable in the eye of law. Rule 22 of the Rules of 1968 also provides as to what has to be considered by the Appellate Authority. The Appellate Authority is silent in regard to those points so we are inclined to quash the appellate order dated 30.06.1999 and to ask the Appellate Authority to consider and dispose of the appeal afresh, in the light of observations made above and also in the light of relevant rules including Rule 22 of the Rules of 1968.

5. The O.A. is accordingly disposed of and the impugned order dated 30.06.1999 is quashed with direction to the Appellate Authority to consider and dispose of applicant's appeal afresh, in accordance with the observation made above and also in accordance with the relevant rules



of 1968 within a period of two months from the date a certified copy of this order is produced before him. It would be better if the applicant is also given an opportunity to appear in person and make his submissions, before appeal is so disposed of. No order as to costs.


Member (A) 26.2.08


Vice Chairman 26/2/08

/M.M/