

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 925 OF 1999

ALLAHABAD THIS THE 5TH DAY OF OCTOBER, 2004

HON'BLE MR. A. K. BHATNAGAR, MEMBER-J

HON'BLE MR. S. C. CHAUBE, MEMBER-A

D.B. Katiyar,

son of Sri Shiv Kumar Katiyar

aged about 43 years, Senior Pharmacist,

Northern Railway Hospital,

Resident of Railway Quarter No. 786D

(Loco Colony), Nawale Yusuf Road,

Allahabad.

. . . . . Applicant

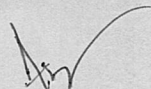
( By Advocate Shri K.N. Katiyar )

Versus

1. Union of India,  
through the General Manager,  
Northern Railway Head Quarters Office N. Rly,  
Baroda House, New Delhi.
2. Chief Medical Superintendent,  
Northern Railway Hospital, Allahabad.
3. Dr. N.K. Srivastava,  
Sr. Divisional Medical Officer,  
N. Railway, Allahabad.
4. Sr. Divisional Personnel Officer,  
N. Railway, Allahabad.

. . . . . Respondents

( By Advocate Shri A. V. Srivastava )





ORDER

HON'BLE MR. A. K. BHATNAGAR, MEMBER-J

By this O.A. applicant has prayed for quashing of the Appellate order dated 09.10.1998 as well as the Punishment notice dated 20.01.1998, withholding increment temporarily for one year, being vague, void, arbitrary and illegal with all consequential benefits.

2. The applicant has challenged the punishment order dated 20.01.1998 by which he was imposed with the punishment of withholding increment for one year with immediate effect (Annexure-2). The applicant thereafter filed an appeal against this order on 1/6.6.1998 (Annexure-7) which was decided by the Appellate authority by order dated 09.10.1998 (Annexure-1). The learned counsel for the applicant submitted that the order passed by the appellate authority is a non-speaking and cryptic order. Learned counsel for the applicant further submitted that the appellate authority passed this order without applying his mind in contravention<sup>of</sup> Rule 22 of Railway Servants (Discipline and Appeal) Rules, 1968 which reads as under:-

"22. Consideration of Appeal

(1) In the case of an appeal against an order of suspension, the appellate authority shall consider whether in the light of the provisions of Rule 5 and having regard to the circumstances of the case the order of suspension is justified or not and confirm or revoke the order accordingly.

(2) In the case of an appeal against an order

*AW*



imposing any of the penalties specified in Rule 6 or enhancing any penalty imposed under the said rule, the appellate authority shall consider:-

(a) Whether the procedure laid down in these rules has been complied with, and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;

(b) Whether the findings of the disciplinary authority are warranted by the evidence on the record; and

(c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe; and pass orders-

(i) Confirming, enhancing, reducing or setting aside the penalty; or

(ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such directions as it may deem fit in the circumstances of the case."

Learned counsel for the applicant further submitted that the appellate authority <sup>has</sup> not taken into consideration the various points raised by him in his appeal as per rules.

3. The learned counsel for the respondents justified the action of the respondents and submitted that there is no illegality committed by the respondents in passing the orders. We have gone through the appellate order (Annexure-1) which contains only three lines which reads as under:-

"After careful consideration of the appeal I do not find the appeal satisfactory being a case of disobedience of orders to perform duty. Hence the punishment is upheld."

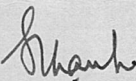
From the bare perusal of this order we find that the Appellate Authority has not considered the various points raised in the appeal by the applicant and <sup>therefore, the appellate</sup> order

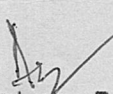


being  
the cryptic deserves to be set aside.

the O.A. is partly allowed and  
4. In view of the above, the Appellate order dated  
09.10.1998 (Annexure-1) is quashed and set aside and the  
case is remitted back to the concerned authority for  
deciding the appeal of the applicant <sup>afresh</sup> by a reasoned and  
speaking order after considering all the points raised  
by the applicant in his appeal dated 06.06.1998  
(Annexure-7) within a period of three months from the  
date of receipt of a copy of this order.

5. There shall be no order as to costs.

  
Member-A

  
Member-J

/Neelam/