

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

Original Application No. 1277 of 1999

Tuesday, this the 10th day of October, 2006

Hon'ble Mr. Justice Khem Karan, V.C.

Hon'ble Mr. P.K. Chatterji, Member (A)

Tara Chand Dev, aged about 50 years, S/o Late Shri M.R. Gdegawlia, Working as Head Inquiry & Reservation Clerk, Posted at Moradabad Railway Station, Northern Railway, under the control of the Divisional Railway Manager, Northern Railway, Moradabad Division, Moradabad.

Applicant

By Advocate Shri Rakesh Verma

Versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Commercial Manager, Northern Railway, Moradabad Division, Moradabad.
3. The Senior Divisional Commercial Manager, Northern Railway, Moradabad Division, Moradabad.
4. The Additional Divisional Railway Manager, Northern Railway, Moradabad Division, Moradabad.

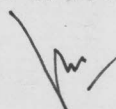
Respondents

By Advocate Shri Prashant Mathur

O R D E R

Justice Khem Karan, Vice Chairman

The applicant has prayed for quashing the Order dated 07.04.1999 by which he was punished by the Disciplinary Authority by imposing withholding one increment for a period of one year temporarily, the Order dated 29.06.1999 and Order dated 26.08.1999 by which his appeal as well as revision were rejected respectively.

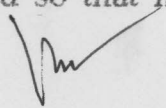


2. The main grounds taken in O.A. are that he was not supplied the copies of relevant documents and secondly the order of punishment as well as Appellate and Revision Orders are non-speaking and so these deserve to be quashed.

3. The respondents have contested the claim by filing counter affidavit.

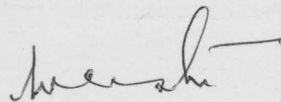
4. A perusal of memo of charge sheet issued under Rule 11 of Rules of 1968 (annexure A-12) reveals that the charge against the applicant was that even after verbal orders on phone of Commercial Inspector for reservation in forum of a particular party, he refused to do so and not only this even after memo in writing of the Commercial Inspector, the applicant persisted in refusal. It appears from perusal of annexure A-13 and A-14 that the applicant demanded copies of four papers including the copy of complaint in writing of the party concerned. He submitted his reply, copy of which is annexure A-15. The authority concerned was not satisfied with the reply, so it passed the punishment order dated 07.04.1999 (Annexure A-1). The applicant preferred an Appeal and after rejection of the Appeal a Revision but the same was also dismissed.

5. Shri Verma has argued that the punishment order is bad in the eyes of law for a number of reasons. According to him, it does not reflect application of mind on the part of disciplinary authority. He says that it is a non speaking order and same has been passed without affording full opportunity of hearing, by way of supplying copies of the documents, asked for by the applicant. According to Shri Verma, even in the cases of minor penalty under Rule 11, the authority concerned has to give reasons for not accepting the explanation of the employee concerned so that he may take the



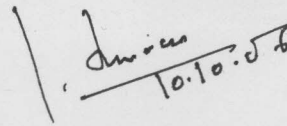
matter to Appeal and Appellate Authority may apply its mind as to whether the reasons given for imposing the punishment are satisfactory or not. Shri Mathur has tried to say that the Order is speaking one in the sense that it states the charge in brief and says that explanation is not satisfactory. According to Shri Mathur it was not necessary for the authority concerned to have discussed the matter at length. Shri Mathur has also tried to say that no fault can be found with the Order. We are of the view that considering the nature of charge and other attending circumstances, no fault can be found with the punishment order. One of the charges was that even when the Commercial Inspector said on telephone to get the reservation done, the applicant denied and even the instruction in writing were flouted by the applicant. The punishment order in such cases need not contain a detailed discussion so we find no infirmity in the punishment order dated 07.04.1999. Undoubtedly, the Appellate Order is cryptic and non-speaking. Shri Mathur was not in a position to defend it so it deserves to be set aside and with this ^{the} Revisional Order as well.

6. So, the O.A. is partly allowed. The Appellate and Revisional Order are quashed with a direction to the Appellate Authority to decide the Appeal afresh in accordance with law and to pass a speaking order within a period of 3 months from the date a certified copy of this Order be produced before him. No order as to cost.



Member (A)

/M.M./



Vice Chairman