

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No. 67 of 2000

Thursday day, this the 30th day of November, 2006

Hon'ble Mr. Justice Khem Karan, V.C.
Hon'ble Mr. M. Jayaraman, Member (A)

Dharmendra Kumar Misra, aged about 37 years, son of Sri Rajendra Prasad Misra, resident of L/21-A, Hospital Colony, Kasganj, Dist. Etah, Engin Cleaner, Dieselshed, North Eastern Railway, Izzat Nagar Division, Bareilly.

Applicant

By Advocate Shri T.S. Pandey

Versus

1. Union of India through the Ex-Officio Secretary and Chairman, Railway Board, Rail Bhawan, New Delhi.
2. General Manager, North Eastern Railway, Gorakhpur.
3. Divisional Railway Manager, North Eastern Railway, Izzat Nagar Division, Bareilly.
4. Senior Divisional Mechanical Engineer, North Easter Railway, Izzat Nagar Division, Bareilly.

Respondents

By Advocate Shri V.K. Goel

O R D E R

M. Jayaraman, Member (A)

Heard Shri T.S. Pandey, Counsel for the applicant and Shri V.K. Goel, Counsel for the respondents.

2. The applicant has come up before the Tribunal against the Order of punishment dated 08.06.1999 (Annexure A-1) fixing the pay of the applicant in the lowest stage of the pay scale for a period

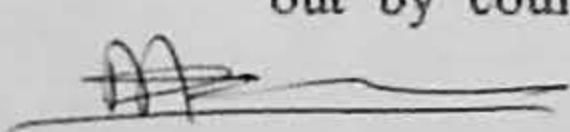


of one year and also against rejection of his Appeal vide Order dated 11.08.1999 (Annexure A-2) filed against the punishment order dated 08.06.1999.

3. The counsel for the applicant has contended mainly that both the impugned orders dated 08.06.1999 as well as the appellate order dated 11.08.1999 have been passed in gross violation of natural justice since the explanation given by the applicant and also the statement of eight other employees (listed at Annexure-5 and 5-A), have not been taken into account nor he was afforded any opportunity to explain his case in person. He further stated it is in violation of Rule 6 (1) read with Rule 9 of the Railway Servant (Discipline and Appeal) Rules, 1968.

4. The counsel for the respondents namely Shri V.K. Goel has submitted that the impugned order dated 08.06.1999 has imposed only a minor penalty on the applicant and so the provisions of detailed inquiry would not be applicable here. He also pointed out that at no time the applicant himself asked for any detailed inquiry.

5. We have given our careful consideration to all the pleadings made in this O.A. and also the argument put forward by the counsel for both sides. A perusal of annexure-1 shows that the order of punishment has only reduced the pay of the applicant in the lowest of the pay scale for a period of one year and, as such, it would come under the category of minor penalty only. Admittedly, the Railway Servant (Discipline and Appeal) Rules, 1968 providing for imposition of penalty, does not, except when the Disciplinary Authority finds it necessary, stipulate holding of any detailed inquiry, which is applicable only for imposition of major penalty. We find that the applicant's case is covered under Rule 6 (iii) (b) and not under Rule 6 (v), and therefore, as pointed out by counsel for the respondents, the procedure as provided



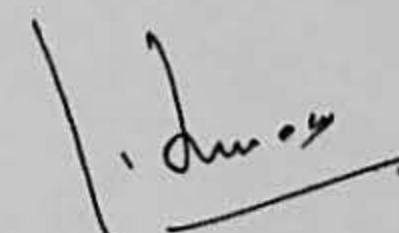
under Rule 9 would not be attracted. The charge against the applicant was that he had used abusive language with his superiors. Whether the applicant did so, was to be looked into by the Authority concerned and by the Appellate Authority. This Tribunal is not sitting in Appeal, over the conclusion so reached, by the Authorities concerned. We think, the view taken by the authorities concerned cannot be interfered with, only on the ground, that they did not examine those five employees or three employees, as mentioned in A-5 and 5-A. It was not legally incumbent on the authority concerned to call witnesses and examine them. Moreover, those A-5 and A-5A also speaks of heated arguments between the applicant and his superior. The impugned orders appear to have been passed after application of mind. Principles of natural justice were observed. Accordingly, we find no substance in the O.A., which deserves to be dismissed.

6. In the light of above discussions, we dismiss the O.A., but with no order as to costs.



Member (A)

/M.M./



Vice Chairman