

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 6th day of <sup>May</sup> June, 2002.

Original Application No.1018 of 2000.

CORAM :-

Hon'ble Maj Gen KK Srivastava, A.M.

Hon'ble Mr. AK Bhatnagar, J.M.

O.P. Verma S/o Sri Nathu Singh,

Senior Goods Clerk,

Northern Rly, Bijnore.

(Sri KS Saxena, Advocate)

..... Applicant

Versus

1. The Union of India

Through General Manager,

Northern Rly, Baroda House,

New Delhi.

2. The Senior Divl.Commercial Manager,

Northern Rly, Moradabad.

3. The Divisional Commercial Manager,

Northern Rly, Moradabad.

(Sri AK Gaur, Advocate)

..... Respondents

O R D E R (O\_r\_a\_l)

By Hon'ble Maj Gen KK Srivastava, A.M.

By this OA filed under Section 19 of the

Administrative Tribunals Act, 1985, the applicant has

challenged the appellate order dated 10/13-3-2000

passed by respondent no.2

(Annexure-A-1) and the punishment order dated 22-11-1999

(Annexure-A-2) passed by respondent no.3 and has prayed

that the same be quashed.

2. The facts, in brief, giving rise to this OA are

that the applicant was working as Head Goods Clerk

in the respondent's establishment at Gajrola Rly Station, Moradabad, <sup>h h</sup> he was issued a major penalty charge sheet (SF-5) on 16-2-1996. The Inquiry Officer was appointed vide order dated 12-1-1999. The Inquiry Officer submitted his report on 23-10-1999. The enquiry report was sent to the applicant on 26-10-1999 (Annexure-9) and the applicant submitted his explanation to the same. The disciplinary authority passed the order of punishment on 22-11-1999 passed by respondent no.3 awarding the punishment of reduction to lower scale for two years reducing the applicant in lower grade of Rs.4500/- in the scale of Rs.4600/-. The applicant filed an appeal on 11-1-2000 which has been rejected by the applicant vide order dated 10-13-3-2000. Aggrieved by this the applicant has filed the OA which has been decided by the respondents.

3. Sri KS Saxena, learned counsel for the applicant has submitted that in the case of the applicant there has been violation of the principles of natural justice for the following reasons:-

- (i) The applicant was not supplied with the relied upon documents.
- (ii) The Inquiry Officer was appointed after three years of the issue of charge sheet (SF-5).
- (iii) Additional documents demanded by the applicant vide (Annexure-5) letter dated 22-2-1995 were not supplied.

Thus for the above reasons the applicant has not been afforded a reasonable opportunity to defend himself.

4. Learned counsel for the applicant also submitted that the Inquiry Officer held <sup>four</sup> <sup>Mr Five Mr</sup> <sup>Mr Six Mr</sup> out of <sup>five</sup> ~~five~~ charges proved and the one charge regarding late issue of RR



was not proved. The applicant was also not given personal hearing.

5. Learned counsel for the applicant further submitted that the other Traffic Staff i.e. the Station Supdt. Control Office, who are connected with the supply of <sup>by Nagorni</sup> documents have not been impleaded in this case by the respondents and thus the entire proceedings are vitiated.

<sup>vehemently</sup> 6. ~~Ultimately~~, opposing the claim of the applicant, learned counsel for the respondents Sri AK Gaur, submitted that in the appeal filed by the applicant on 11-1-2000 no ground of non-supply of documents have been taken. These points were raised by the applicant at the time of enquiry and considered. The appropriate procedure has been followed. A copy of the enquiry report was supplied before the disciplinary authority passed the order of punishment dated 22-11-1999. The learned counsel <sup>also</sup> has placed reliance on the judgement of the Hon'ble Supreme Court in State of Tamilnadu Vs. KD Perumal 1996 Vol V SCC 474 and Sayeed Vs Director of Education,

AIR 2001 SC 2418 and FCI Vs. PA Bhuwan, 1999 SCC(L&S) 620 in which <sup>the</sup> ~~order~~ of the Hon'ble Supreme Court <sup>which</sup> laid down the principles that the applicant had to prove or indicate prejudice which has been caused due to non-supply of the documents. In the instant case learned counsel for respondents argued that no prejudice has been caused.

7. We have heard counsel for the parties, have carefully considered their submissions and perused the records.

8. The applicant has challenged the punishment order and the <sup>the</sup> ~~appeal~~ <sup>order</sup> mainly on the ground that the applicant has been denied reasonable opportunity to defend himself and also on the ground of delay between issue of charge sheet (S.F.5) and the appointment of Inquiry Officer.

9. On ~~perusal~~ of the punishment order dated 22-11-99 we are of the view that the punishment order is cryptic and the Disciplinary Authority has failed to discuss the various points raised by the applicant in his reply filed as Annexure-A-10 in response to letter of the Disciplinary Authority dated 26-10-1999 (Annexure-A-9).

10. We have also perused the appeal of the applicant dated 11-1-2000, which has been filed as Annexure-A-14.

On ~~perusal~~ of the same, we find that the applicant in the said appeal has not advanced the argument put before us by the learned counsel. However, the applicant, in the last para of appeal dated 11-1-2000, has prayed that his penalty should be reduced to the minimum as the punishment awarded is severe. The applicant has also sought for personal interview which has not been given, nor has the applicant been informed by the appellate authority about his decision in this regard.

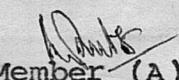
11. We are convinced that in the interest of justice, personal hearing has to be given especially when it is being sought for and, therefore, the action of the appellate authority deciding the appeal of the applicant without hearing the applicant is not in order. Therefore, the appellate order dated 10/13-3-2000 cannot sustain in the eyes of law.

12. In view of our aforesaid discussion, we quash the appellate order dated 10/13-3-2000 and remand the case to respondent no.2 to decide the appeal of the applicant after giving him personal hearing within a period of 2 months from the date of receipt of a copy of the appeal dated 11-1-2000 and a copy of this order ~~is submitted before respondent no.2~~. In order to avoid delay the applicant will file the copy of his appeal dated 11-1-2000 alongwith a copy of this order within six weeks. No costs.

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Member (J)

  
Member (A)