

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD.

Original Application No.211 of 2002.

Allahabad this the 17th day of October 2003.

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

B.N Ram
S/o Late Sukhram
R/o 341 Ram Duttapur P.O. Pandeypur
Varanasi.

.....Applicant.

(By Advocates: Sri S.K. Dey
Sri S.K. Mishra)

Versus.

1. Union of India
through the General Manager
N. Rly, Baroda House,
New Delhi.
2. The A.D.R.M.N Rly.,
Lucknow.
3. The Senior D.C.M
N. Rly, Lucknow.

.....Respondents.

(By Advocate : Sri P Mathur)

O R D E R

By this O.A. filed under section 19 of Administrative Tribunals Act 1985, the applicant has challenged the order dated 26.03.2001 by which the Disciplinary Authority awarded the penalty of withholding the ten sets of privilege passes to the applicant on conclusion of enquiry with immediate effect. Appeal against the aforesaid order was dismissed by order dated 07.08.2001 which has also been challenged.

2. The facts of the case are that the applicant was



served with memo of charge dated 5.1.1999 on the basis of vigilance check conducted at the Booking Office, Varanasi on 01.06.1994, 02.06.1994 and 3.6.94. The charge against the applicant is that he was found responsible for not detecting any irregularities in the ticket stock and ticket stock register during the inspection conducted by him at B.S.B. His failure in this regard lead to duplicate indenting of tickets in Booking Office, Varanasi. As usual, enquiry officer was appointed who submitted report on 30.04.2000 with a finding that charges levelled against the applicant were not proved. A copy of which has been filed as Annexure-5. Disciplinary Authority passed the punishment order. Applicant submitted his appeal before respondent No.2 which was dismissed by the Appellate Authority. Applicant submitted that order passed by Disciplinary Authority and Appellate Authority are liable to be quashed as memo of disagreement was not served ^{on} the applicant before passing the order. It is submitted that the Disciplinary Authority could disagree with the finding of the enquiry officer for which he ought to ^{have} served memo of disagreement on the applicant. Reliance has been placed on the judgment of Hon'ble Supreme Court in case of D. Yoginath Bagla Vs. State of Maharashtra.

3. Learned counsel for the applicant has also submitted that applicant has already been retired from service and charge relates to 1999. Long time has elapsed and applicant



may not be subjected to further enquiry.

4. Learned counsel for the respondents, on the other hand, submitted that applicant was given full opportunity of hearing and thereafter order has been passed. It is further submitted that respondents may be given fresh opportunity ~~for~~^{for u} passing the order against the applicant after serving him a memo of disagreement.

5. I have carefully considered the submissions made by learned counsel for the parties.

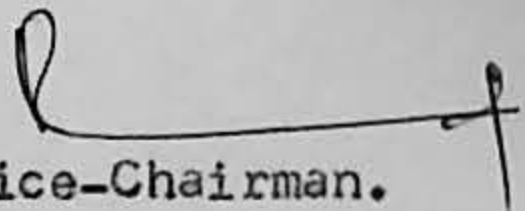
5. There is no dispute about the fact that the Disciplinary Authority failed to serve the memo of disagreement on the applicant. There was ~~in~~^u violation of mandatory provision and order passed are clearly in violation of principle of natural justice. The orders passed cannot be sustained. The next question of consideration is as to whether matter should be closed here or should be sent back for respondents for passing a fresh order. As the orders are being set aside on technical reason, in my opinion, matter may be sent back to the authority for passing a fresh order and it ~~shall be~~^u open ~~for~~^{for u} them, ^{to decide u} whether any further enquiry is desirable ~~in case~~ as applicant has already been retired from service.

6. For the reasons stated above, the impugned order dated 26.03.2001 (Annexure 6) passed by Disciplinary Authority and order dated 7.8.03 passed by Appellate Authority (Annexure 8) are quashed. It is left open to the



respondents to pass a fresh order after ^{supervising} ~~considering~~ the principle of natural justice and after serving the memo of disagreement if they are so advised, even after the retirement of the applicant.

7. There will be no order as to costs.


Vice-Chairman.

Manish/-