

(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 9<sup>th</sup> day of April 2002.

Original Application No. 335 of 2002.

CORAM :- Hon'ble Maj. Gen. K.K. Srivastava, Member- A.  
Hon'ble Mr. A.K. Bhatnagar, Member- J.

Jagdish Babu Dubey, Junior Engineer (Train Lighting),  
Northern Railway, Kanpur Central.

.....Applicant

Counsel for the applicant :- Inperson

V E R S U S

1. Union of India through the General Manager,  
Northern Railway Headquaretrs Office,  
Baroda House, New Delhi.
2. Divisional (Additional) Railway Manager,  
Northern Railway, DRM Office, Allahabad.  
(The Appellate Authority).
3. Senior Divisional Electrical Engineer (General),  
Northern Railway, DRM Office, Allahabad.  
(The Disciplinary and punishing authority).

.....Respondents

Counsel for the respondents :- Sri A.K. Gaur

O R D E R

(By Hon'ble Mr. A.K. Bhatnagar, Member- J.)

By this O.A under section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order of punishment dated 08.12.1994 and the order passed in appeal on 15.05.2001 by which he was punished by reduction of his pay by three stages temporarily.

2. The applicant had earlier approached this Tribunal on the ground that the appellate order was a non-speaking cryptic order. This Tribunal was pleased to set aside the

appellate order in OA No. 706/1995 passed on 11.01.2001.

The Tribunal permitted the appellate authority to consider the appeal and hear the applicant after affording him an opportunity to be present with his defence helper and dispose of the same by a speaking order within a period of three months

3. We find that in pursuance of the said order of the Tribunal, a speaking order has been passed on 15.05.2001 which has been challenged in this OA. The main ground for challenging the appellate order and the punishment order is that the punishment awarded to him is a major penalty and for such penalty a departmental enquiry should have been held. Further the applicant also claims that the impugned appellate order dated 15.05.2001 is still not a speaking order.

4. We are unable to agree with both these contentions. The fact that the penalty awarded to the applicant was a minor penalty is clearly brought forth in para III of the appellate order (annexure A- 1) which states "The appeal begins with the contention that the punishment imposed is in the nature of major penalty, Rules and Regulations on this subject have been checked. This contention is not correct. The punishment imposed is categorised as a minor penalty and no enquiry was necessary under the D & A Rules before imposing this penalty. This punishment has been included as Minor Penalty by Railway Board in their letter No.E (D&A)90RG-6-112 dated 06.11.1990.". Therefore, the appellate authority has quoted the Railway Board's Circular dated 06.11.1990 by which said penalty has been categorised as a minor penalty and the applicant has not shown any evidence to the fact that this Railway Board Circular is not applicable. Further he himself has stated in his OA

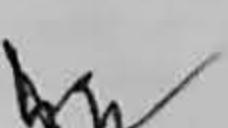
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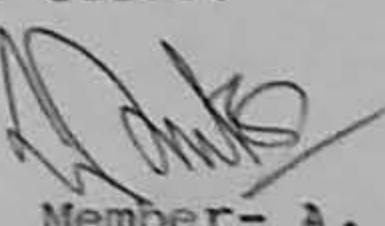
that in terms of annexure A- 10 "enquiry is necessary, if penalty to be awarded is WIP for any period and WIT for more than three years.". This means that if the nature of the penalty is temporary and for not more than three years, an enquiry is not necessary. Since the applicant him-self has quoted the said rule and we find that his reduction in pay has temporary effect with not more than three years, the penalty is a minor penalty and a departmental enquiry was not necessary under law.

5. As regards the non-speaking nature of the appellate order, we find that the appellate authority has considered all the issues raised by the applicant. We have perused the punishment order and find that the guilt of the applicant has been clearly brought forth and there are no infirmities in the procedure adopted while awarding the minor penalty. Since the appellate authority has clearly passed a speaking order in accordance with direction of the Central Administrative Tribunal, we find no reasons to interfere in the order dated 15.05.2001 by which the appeal of the applicant was rejected. The issue of minor/major penalty was also raised at the time of appeal and duly rejected in accordance with Railway Board's Circular dated 06.11.1990.

6. In the circumstances mentioned above, we find no force in the O.A and, therefore, dismissed.

7. There shall be no order as to costs.

  
Member- J.

  
Member- A.

/Anand/