

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.548 OF 2002

ALONGWITH

ORIGINAL APPLICATION NO.547 OF 2002

ALLAHABAD THIS THE 15<sup>TH</sup> DAY OF January 2004 .

HON'BLE MAJ GEN. K.K. SRIVASTAVA, MEMBER-A

HON'BLE MR. A. K. BHATNAGAR, MEMBER-J

Suresh Prasad,  
son of Sri Ram Janam Ram,  
Khalasi Under Chief Traction Fireman,  
(RSO) Northern Railway,  
Mughal Sarai. ....Applicant  
( By Advocate Sri S. Ram )

Versus

1. Union of India,  
through General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
2. Divisional Electrical Engineer (R.S.O.),  
Northern Railway,  
Allahabad.
3. Senior Divisional Electrical Engineer (R.S.O.),  
Northern Railway, Allahabad.  
.....Respondents  
( By Advocate Sri A.K. Gaur )

ALONGWITH

ORIGINAL APPLICATION NO.547 OF 2002

Bhagwati Prasad,  
son of Sri Birjoo Ram,  
R/o Railway Quarter No.4-C,

Mughal Sarai,  
District-Varanasi. ....Applicant  
( By Advocate Shri S. Ram )

Versus

1. Union of India,  
through General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
2. Divisional Electrical Engineer (R.S.O.),  
Northern Railway,  
Allahabad.
3. Senior Divisional Electrical Engineer (R.S.O.),  
Northern Railway,  
Allahabad. ....Respondents

( By Advocate Shri A. K. Gaur )

O R D E R

HON'BLE MAJ GEN. K. K. SRIVASTAVA, MEMBER-A

Since the facts in both the O.A.'s and the reliefs claimed are similar, both the O.A.s are decided by a common order, leading O.A. being 548/02.

2. In this O.A. Filed under section 19 of Administrative Tribunals Act 1985, the applicant has challenged the Punishment order dated 18.08.1992 and the Appellate Order dated 05.03.2002 and has prayed that both the orders be quashed with direction to respondents to give promotion and other consequential benefits to the applicant.

3. The facts, in brief, are that the applicant is employed as Khalasi in the respondent's establishment. The applicant was



served with a chargesheet dated 5/8.9.1991 and after the completion of enquiry the Disciplinary Authority passed the punishment order dated 18.08.1992 reducing the applicant to the minimum of his pay in the time scale for five years with cumulative effect. The applicant filed an appeal against the order and the Appellate Authority vide order dated 05.03.2002 modified the punishment order reducing the applicant to the minimum of his pay in his present time scale for three years with cumulative effect. The applicant filed O.A. No.1722/93 and Shri Bhagwati Prasad applicant of O.A. No.547/02 filed O.A. No.1821/93. Both the O.As were decided by a common order dated 13.12.2001. The Tribunal quashed the Appellate order dated 18.12.1993 with direction to the Appellate Authority to decide the appeal of the applicants within a period of four months by a reasoned order and in accordance with law. In pursuance to the order of this Tribunal dated 13.12.2001 the Appellate Authority has passed the impugned order dated 05.03.2002. Aggrieved by the same this O.A. has been filed which has been contested by the respondents by filing CA.

4. Heard counsel for the parties at length, considered their submissions and perused records as well as the written arguments submitted by the parties.

5. The learned counsel for the applicants in both the O.As has advanced six grounds to establish the illegality of the impugned orders and has cited several judgments of Superior courts as well as of Tribunal in support of his arguments. One of the grounds raised by the applicant's counsel is that the Disciplinary Authority passed the Punishment Order without supplying the copy of the enquiry report and so the order of the Disciplinary Authority is patently illegal. We find substance in the submission of the applicant. This contention of the applicant's

counsel has not been denied by the respondents and on this ground alone the punishment order dated 5/8.09.1991 in O.A. No.548/02 and punishment order dated 31/4.07.1992 in O.A. No.547/02 are liable to be quashed in view of the settled legal position by the Apex Court in case of U.O.I. and Ors. Vs. Mohammad Ramzan Khan (1991) 1 SCC 588. The Hon'ble Supreme Court in para 15 of the judgment has held that enquiry report must be given for rebuttal or making representation against it prior to imposition of punishment by the Disciplinary Authority.

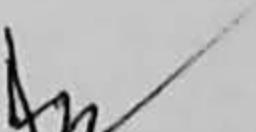
*Anil Kapoor*  
6. Further it is unfortunate to observe that Appellate Authority has passed the impugned Appellate order dated 05.03.2002 in both the O.A.s without application of mind. In their appeal dated 14.09.1992 the applicants <sup>in both the O.A.s</sup> have raised six grounds while challenging the Punishment order. The Appellate Authority passed a cryptic Appellate Order dated 18.02.1993 which has been quashed by the Tribunal by order dated 13.12.2001 passed in O.A. No.1722/93 alongwith O.A. No.1821/93. The case was remanded to the Appellate Authority to pass a reasoned order and in pursuance of the order of this Tribunal dated 13.12.2001 the Appellate Authority has passed the impugned order dated 05.03.2002 which again is cryptic. On perusal we find that none of the grounds raised by the applicants in their appeal dated 14.09.1992 have been addressed in the impugned appellate order. It appears that Appellate Authority has disposed of the appeal in a most casual manner and such an order cannot sustain in the eyes of law.

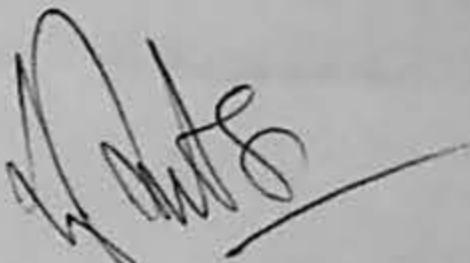
7. In the facts and circumstances and our aforesaid discussions the O.A.s are partly allowed. The Punishment Order dated 18.08.1992 and Appellate Order dated 05.03.2002 in O.A. No.548/02 and Punishment Order dated 31/4.07.1992 and Appellate Order dated 05.03.2002 in O.A. No.547/02 are quashed.

*Anil Kapoor*

The matter is remitted back to the Disciplinary Authority i.e. respondent no.2 to complete the disciplinary proceedings from the stage of furnishing Enquiry Report to the applicants and complete the disciplinary proceedings initiated against the applicants of both the O.A.s in accordance with law within a period of three months from the date of communication of this order.

8. There shall be no order as to costs.

  
Member-J

  
Member-A

/Neelam/