

**OPEN COURT
CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH
ALLAHABAD**

Allahabad this the 22nd day of February, 2010

PRESENT:

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

HON'BLE MRS.MANJULIKA GAUTAM, MEMBER-A

Original Application No.937/2003

(U/s 19 of the Administrative Tribunals Act 1985)

Mahi Lal,
S/o Shri Dhani Ram,
Senior Section Engineer (P.Way),
Northern Railway, Chandausi,
Moradabad. ...Applicant

(By Advocate : Sri T.S.Pandey)

Versus

1. Union of India through General Manager,
Northern Railway, Baroda house, New Delhi.
2. Additional Divisional Railway Manager,
Northern Railway, Moradabad.
3. Divisional Superintending EngineerC,
Northern Railway, Moradabad.
4. Divisional Engineer N/SPN (Enquiry Officer),
Northern Railway, Moradabad Division,
Moradabad. ...Respondents.

(By Advocate : Mr.A.Tripathi)

ORDER

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

Shri . T.S. Pandey, learned counsel appeared for applicant
and Shri A.Tripathi, learned counsel appeared for respondents.

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2. Mr. Pandey learned counsel for applicant would contend that the applicant has earlier filed O.A. 57/03 which was decided by this Tribunal vide order dated 28.1.2003. In compliance of the direction passed by this Tribunal, the applicant's appeal was decided by the competent authority by order dated 22.5.2003(A2). Mr. Pandey, learned counsel for applicant would contend that the order passed by the Appellate authority is still a non-speaking and have been passed in a most casual and perfunctory manner without application of mind. Counsel for applicant would contend that the order passed by the disciplinary authority is also a cryptic and non-speaking. The disciplinary authority has appended his signature in the order of punishment like an automaton.

3. We have heard Shri. A. Tripathi learned counsel for the respondents. No tangible ground was shown in support of the pleas taken in the counter affidavit. We have carefully seen the records and noticed that the applicant has earlier filed O.A. 57/03 wherein a direction was issued to the competent authority to decide the appeal dated 16.10.2002 afresh in accordance with the provisions of rules. The appellate authority in compliance of the order of the Tribunal passed the order on the appeal of the applicant. This time again the order was passed by the appellate authority in a casual and perfunctory manner without application of mind and without following the following decisions of Hon'ble Supreme Court rendered in the case of **Chairman Disciplinary**

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Authority, Rani Laxmi Bai Gramin Bank Vs. Jagdish Varshney (JT 2009 Vol 4 SC 519), N.M. Arya Vs. United India Insurance Company (2006 SCC (L&S) 840), D.F.O Vs. Madhusudan Das (2008 Vol I Supreme Today page 617), Director, I.O.C Vs. Santosh Kumar (2006 Voll. 11 SCC page 147) and State of Uttaranchal Vs. Karag Singh (2008 Vol 8 SCC page 236) wherein, it has been held by the Hon'ble Apex Court that while deciding the representation/appeal by the competent authority, speaking order should be passed and all the grounds taken either in memo of appeal/Revision or Representation must be considered. .

4. In the counter affidavit filed by the respondents in paras 5,6,7, 13 and 18 the respondents have contended that:

5. *That the contents of paragraph No.4.3 of the original application are not admitted as stated hence denied. It is further submitted that the applicant made request for furnish relied upon the document from the respondents. The respondents authorities directed him to obtain the same from Section Engineer/Permanent Way Inspector, Hapur as the required document pertains to the office of Section Engineer/Permanent Way Inspector, Hapur and the same is available in his office, but the applicant did not make any effort in obtaining the same.*

6. *That the contents of paragraph No. 4.4. of the original application are not admitted as stated hence denied. It is further submitted that the respondents after receiving the request from the applicant regarding furnishing the relied upon documents to the applicant directed to obtain the same from the office of Section Engineer/Permanent Way inspector, Hapur but the applicant inspite of the direction issued by divisional office fail to contact and obtain the required document from the office of the Section Engineer/Permanent Way Inspector, Hapur and again moved an application before the respondents for supplying the relied upon document in the charge-sheet though the*

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applicant is aware that the document is available in the office of Section Engineer/Permanent Way Inspector, Hapur. This action of the applicant clearly indicate that the applicant is not interested for getting the copy of the relied document but interested for lingering on the enquiry on one pretext or another.

7. That the contents of para No.4.5 of the original application are not admitted as stated hence, denied. It is further submitted that the applicant was directed to obtain the relied upon document from the office of Section/Engineer/Permanent Way Inspector, Hapur, but the applicant did not take any attempt for obtaining the required document and instead of obtaining the same again submitted the reminder for supplying the copy of the relied upon the document before the respondents, this action of the applicant clearly indicate that the applicant is not interested and also not co-operating for conducting the enquiry earliest but lingering o the same on one pretext to another. It is also worth while to mention here that when the applicant did not obtain the copy of the relied upon document from th4 office of Section Engineer/Permanent Way Inspector, Hapur even after receiving the direction by the divisional Office then the respondents took the decision to start the enquiry proceedings against the applicant as such there is no infirmity or illegality on the part of the respondents for starting the enquiry proceedings against the applicant.

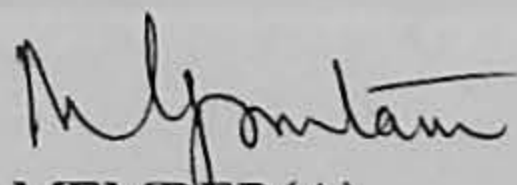
13. That in reply to the contents of paragraph No.4.11 of the original application, it is submitted that the applicant was directed to submit the reply of the enquiry report to the divisional Superintendent Engineer/Co-ordination/Moradabad within fifteen days vide letter dated 22.3.2002.

18. That the contents of paragraph No.4.16 of the original application are not admitted as stated hence, denied. It is further submitted that the appellate authority after considering the grounds taken in appeal, dismissed the appeal of the applicant by speaking order. The said order passed by the appellate authority after affording due opportunity and considering the ground taken in appeal passed detailed and speaking order as directed by the Hon'ble C.A.T., as such there is no infirmity or illegality in the order passed by the appellate authority. The photo copy of the appellate order dated 21.5.2003 is being filed herewith and marked as Annexure No.C.A.-2.

5. We have also gone through the order dated 25/28.5.2003 passed by the appellate authority and order dated 6.9.2002 passed by the disciplinary authority. Both orders are cryptic and non-speaking. In our considered view both the orders are liable to be quashed and set aside. As the matter is already very old it would not be appropriate to remit the matter back to the authorities concerned for passing fresh order and it would be an exercise in futility.

6. We have given our thoughtful consideration to the pleas advanced by the parties' counsel and we are of the view that the O.A. deserves to be allowed.

7. Accordingly, we hereby, allow the O.A, quash the impugned order dated 6.9.2002 and 22.5.2003 with all consequential benefits. No order as to costs.


MEMBER(A)


MEMBER(J)