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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.138 of 1989

Date of decision: 21st December, 1989.

1. Shri Murali Srichandan, son of Lingaraj Srichandan, Puri Railway Station, At/P.O./Dist. Puri working as D.E.Driver, S.E.Railway, Puri.

..... APPLICANT

-Vs-

1. Union of India represented through the Secretary Railway Board, Railway Bhawan, New Delhi.

2. Divisional Railway Manager, South Eastern Railway, Khurda Road, Puri.

3. Electrical Foreman, South Eastern Railway, Puri.

..... RESPONDENTS

For the Applicant. M/s.D.S.Misra &
Sanjib Mohanty., Advocates

For the Respondents. M/s.D.N.Misra,
S.C.Samantray &
P.K.Mohanty, Advocates

C O R A M:

THE HON'BLE MR.B.R.PATEL, VICE-CHAIRMAN
A N D
THE HON'BLE MR.N.SENGUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see the judgement ? Yes.

2. To be referred to the Reporters or not ?

3. Whether Their Lordships wish to see the fair copy of the judgement ? Yes.

JUDGEMENT

N.SENGUPTA, MEMBER (J) This application by a Diesel Engine Driver of South Eastern Railway in Mahila Samity Pump at Puri. The charge against him was that he was found un-authorisedly absent on 20.1.1989. The charge is at Annexure-1 to this Petition. The applicant was asked to submit his explanation. After getting that letter calling for explanation he asked for copies of some documents such as initial report of absence report and statements of persons examined prior to the service of the memorandum of charge on him. The Department refused to supply him the copies of such documents. After that the Disciplinary Authority i.e. Electrical Foreman passed an order impounding two sets of privilege passes for the year 1989 vide Annexure-5. It has been stated on behalf of the applicant that the salary for that day i.e. 20.1.89 has not yet been disbursed to him.

2. As expected, the Department in its Counter has taken the stand that it was not liable to supply the applicant the copies of any documents relating to the preliminary enquiry and further that there was no denial of justice to the applicant.

3. We have heard Mr. D.S.Misra, learned Counsel for the applicant and Mr. D.N.Misra, learned Standing Counsel for the Railway Administration. During the course of hearing we asked Sri D.N.Misra to supply us a copy of reasoned order for imposing the penalty. He draw our attention to Annexures-1 and 5. These really do not satisfy the requirement of law. Annexure-1 is memorandum of charge and Annexure-5 is order of penalty. What is missing are

the reasons for reaching the conclusion of guilt and imposing the penalty. On this ground alone impugned order cannot be sustained. Apart from that, we would like to draw the attention of the Department to a decision of Supreme Court of India in the case of State of Uttar Pradesh -Versus-Mahammed Sarin reported in 1982(2) S.L.R.265. For what we have stated it is un-necessary long then the judgement any further. The impugned order is quashed.

4. Mr. D.S.Misra, learned Counsel for the applicant has submitted that the applicant has not yet been paid salary for 20.1.89. We do not find any order passed by the Department to this effect. Annexure-5 which is the order imposing the penalty is silent so far as this matter is concerned. However, if in fact the salary for the day has not been paid to him it should be paid him. The Department is at liberty to proceed according to law.

5. This case is accordingly disposed of, leaving the parties to bear their own costs.

B.R.PATEL, VICE-CHAIRMAN

I agree

M. Seal Singh
21/12/89
MEMBER (JUDICIAL)

Ram Mohan
4.12.89
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack
21st December, 1989/Mohapatra

