

10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.829 of 2006
Cuttack, this the 21st day of January, 2010

Nagendra Prasad Applicant
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the CAT or not?


(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)


(C.R. MOHAPATRA)
MEMBER (ADMN.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No.829 of 2006
Cuttack, this the 21st day of January, 2010

C O R A M

THE HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER (J)

A N D

THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

Nagendra Prasad, aged about 41 years, son of Late Narayan Prasad,
At/Po.Kalyani Nagar, Dist. Cuttack, Ex-Station Superintendent/DMNJ,
W.A.T Division.

.....Applicant

By Legal practitioner : M/s.Dhuliram Pattnayak, N.S.Panda, N.Biswal,
S.K.Rath, D.N.Pattnaik, Counsel.

- Versus -

1. Union of India represented through its General Manager, East Coast Railway, Chandrasekharpur, Bhubaneswar-751014, Dist. Khurda.
2. Union of India represented by its Chief Operating Manager, East Coast Railway, Bhubaneswar, Dist. Khurda.
3. Additional Divisional Railway Manager, East Coast Railway, Waltair.
4. Senior Divisional Operating Manager, East Coast Railway, Waltair.

....Respondents

By Legal practitioner :Mr. O.N.Ghosh, Counsel.

O R D E R

MR. C.R.MOHAPATRA, MEMBER (A):-

Applicant's case is that vide Annexure-1 dated 01.09.2002 on the allegation of misconduct and misbehaviour a set of charges was issued to him calling upon to file his reply. The substance of the charge was that he had not submitted 'in & out' report as provided under the provision of GR 2.06.

On 09.09.2002 he submitted written statement denying the charges by specifically stating that it was not his job and as a Station Superintendent he was never entrusted with the job of giving 'in&out' report. On receipt of the reply of Applicant, the matter was enquired into. He was not supplied with any documents based on which the prosecution framed and sought to prove the charge nor even the depositions made in the enquiry before the IO. However,

the IO submitted its report on 01.09.2003. But without supplying copies of the enquiry report, the disciplinary authority imposed the order of punishment of reversion on the Applicant vide order under Annexure-8 dated 15/21.04.2004. Against the said order of punishment, he preferred appeal under Annexure-9, but the appellate authority without assigning any reason rejected his appeal under Annexure-10 dated 7.6.2004. Thereafter he preferred revision which did not yield any result. Being aggrieved by such action of the Respondents, he has approached this Tribunal in the present Original Application seeking to quash the order of punishment, order of the Appellate Authority and the order of the Revisional Authority with further direction to the Respondents to restore him to his place with all consequential service and financial benefits retrospectively on the ground that the procedure adopted in issuing the order of punishment was not only contrary to the Rules of the Railway but also in gross violation of the decisions of the Hon'ble Apex Court rendered in the case of Md. Ramjan Khan v Union of India and others, AIR, 1991 SC 471 and in the case of E.C.I.L v K.Karunakaran, AIR 1994 SC 1091 and principles of natural justice.

2. In citing the fault of the Applicant and steps taken starting from issuing the charge sheet till the order of the revisional authority rejecting the revision of the applicant it has been contended by the Respondents in the counter as also in course of hearing by the Learned Counsel appearing on their behalf that there was no breach of any of the Rules nor the punishment imposed was unjustified one. As the Applicant failed in his duty and acted in a manner unbecoming on the part of a Government servant, he was issued with the order of punishment which was upheld by the Appellate Authority as well as Revisional Authority. This Tribunal not being the appellate authority over the decision taken in accordance with rules by the competent authority should

13
not interfere in the matter and should dismiss this Original Application being devoid of any merit.

3. Learned Counsel appearing ^{on} both sides reiterated the stand taken in their respective pleadings and having heard them in extenso, perused the materials placed on record. Supply of enquiry report before imposition of punishment by the DA to the delinquent is no more res integra and requires no authority, in view of subsequent rules made by the Railway and by the Government in this respect. Similar is the situation of passing of the speaking order by the Appellate Authority. Supply of report of the IO is a vital component of principles of natural justice. The non-supply of enquiry report before imposition of the punishment in the present case has neither been disputed by the Respondents in the counter filed in this case nor in course of hearing. Hence, without going to any other points raised/canvassed by Learned Counsel for the Applicant in his pleadings as also in course of hearing, the impugned order of the Disciplinary Authority under Annexure-8 dated 15/21.04.2004 and consequently the order of the Appellate Authority and Reivisional Authority are hereby quashed. As a consequence, the matter is remitted back to the Disciplinary Authority to supply a copy of the enquiry report to the Applicant giving him opportunity to submit his reply. Consequent upon receipt of such reply within the time to be granted to him, the Disciplinary Authority is free to pass order as would be deemed fit and proper in the facts and circumstances of the case. Thereafter, if the applicant has still any grievance, he is free to avail of the opportunity as per rules and law. With the aforesaid observation and direction, this OA stands allowed. There shall be no order as to costs.

K. Thankappan
(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)

C.R. Mohapatra
(C.R. MOHAPATRA)
MEMBER (ADMN.)