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O.A. NO.74/2002

Order dated 18.05.2005.

Heard Shri B.S.Tripathy, the learned counsel for the applicant and Shri R.C.Rath, learned Standing Counsel appearing on behalf of the Respondents-Railways and perused the materials placed on record.

Applicant, a Railway employee, was proceeded against departmentally and, ultimately, was imposed with the punishment (of reversion) on 02.11.2001 under Annexure-2. He preferred an appeal before the Senior Divisional Commercial Manager on 28.12.2001 under Annexure-3 and the appellate authority, in its order dated 07.02.2002 under Annexure-4, issued a show cause notice to the applicant proposing to enhance the punishment of reversion to that of dismissal from service. Applicant submitted a representation / show cause in reply to the said (proposed enhancement of punishment) notice issued by the appellate authority vide Annexure-5 dated 19.2.2002. Before any decision could be taken by the appellate authority on the said reply, the Applicant moved this Tribunal in the present Original Application under Section 19 of the Administrative Tribunal Act, 1985; in which he has challenged the order of punishment (passed by the disciplinary



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authority dated 2.11.2001 under Annexure-2) as well as the notice (proposing enhancement of the punishment of reversion to that of dismissal from service) dated 7.2.2002 under Annexure-4. The Respondents-Railways have filed their counter contesting the case of the applicant.

The sole point that arises in this case for consideration is whether the appellate authority is empowered to issue notice proposing enhancement of punishment as imposed by the disciplinary authority. In course of hearing, the learned counsel for the applicant has utterly failed to substantiate that the appellate authority, under the rules, is bereft of powers to issue any such notice proposing enhancement of punishment. In fact the Rules governing the field vests powers with the Appellate Authority to enhance the punishment, after giving an opportunity to the delinquent Railway Servant to have his say in the matter of enhancement of punishment.

That apart, the reply of the Applicant against the proposed enhancement of punishment is pending consideration by the appellate authority. When the appellate authority, as indicated above, is within his power to enhance punishment imposed by the disciplinary authority and is competent to issue notice to the applicant against such proposed punishment and when the representation made by the applicant against the said show

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cause notice before the appellate authority is pending consideration, this O.A.
before this Tribunal is premature.

We, therefore, without expressing any opinion on the merits
of the matter, dispose of this Original Application being a premature one.

Send copies of this order to the parties and free copies of this
order be given to the learned counsel appearing for the parties.


VICE-CHAIRMAN


MEMBER(JUDICIAL)