CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A.No.160 of 2007
Cuttack, this the 10th August, 2010

Ch. Purushottam ..... Applicant

-Versus-

Union of India & Others ..... Respondents

.....

FOR INSTRUCTIONS

1. WHETHER it be sent to reporters or not?
2. WHETHER it be circulated to all the Benches of the Tribunal or not?

(C.R.Mohapatra)
Member (Admn.)

(G.Shanthappa)
Member(Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
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CORAM
THE HON'BLE MR.G.SHANTHAPPA, MEMBER (J)
AND
THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

.....

Ch. Purushottam aged about 63 years, Son of Ch.Jagannayakula, Ex-Lever Man 'B' under Sr. Divisional Operations Manager, E.Co.Railway, Khurda Road staying at C/o.R.K.Behera, Central Bank of India, Nehru Nagar, 4th Line, PO-Gosaninuagaon, Berhampur, Dist. Ganjam, PIN 760 003.

.....Applicant

Legal practitioner: M/s.Achintya Das, Dillip Kumar Mohanty, Counsel

-Versus-

1. Union of India represented through the General Manager, East Coast Railway, Rail Vihar, Chandrasekharpur, At/Po.Bhubaneswar, Dist. Khurda.

2. The Chief Operations Manager, East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.

3. The Divisional Railway Manager, East Coast Railway, Khurda Road, PO. Jatni, Dist. Khurda, PIN 752 050.

4. The Additional Divisional Railway Manager, East Coast Railway, Khurda Road, PO Jatni, Dit. Khurda, PIN 752050.

5. The Senior Divisional Operations Manager, East Coast Railway, Khurda Road, PO.Jatni, Dist. Khurda, PIN 752 050.

By legal practitioner: Mr.T. Rath, Counsel.

ORDER

MR. G.SHANTHAPPA, MEMBER (J)

The above Original Application has been filed by the Applicant under section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

"(i) To quash the order of the Disciplinary Authority dated 15.5.2001 under Annexure-A/3;

(ii) To quash the order of the Appellate Authority dated 27.11.2001 under Annexure-A/6;

(iii) To quash the order of the Reviewing Authority dated 08.03.2004 under Annexure-A/9;

(iv) To direct the Respondents to pay the Applicant all his service and financial benefits retrospectively;

(v) To direct the Respondents to revise the pension leave salary etc. accordingly;

(vi) To direct the Respondents to pay the applicant all his financial dues/arrears with 18% interest per annum;

(vii) To pass other order/orders as deemed fit and proper."

2. Respondents filed their counter opposing the stand of the Applicant. Applicant has also filed rejoinder to the counter filed by the Respondents.

3. Mr. Achintya Das, Learned Counsel appearing for the Applicant and Mr. T.Rath, Learned Counsel appearing for the Respondents have reiterated the stand taken in their respective pleadings. Having heard them at length, perused the materials placed on record. It is noticed that against the order of the Disciplinary Authority under Annexure-A/3 dated 15.05.2001, Applicant preferred the appeal under Annexure-A/5 dated 05.07.2001 stating as under:

> "Respectfully I beg to put the following before your kind notice:
>
> That the Memorandum of Charge Sheet (in short C/S), Dt. 19.12.2000 contains inter-alia that "It is also observed during the fact finding enquiry ....."
>
> That the Inquiry Officer (in short IO) has mentioned under the heading "History of the case" of his inquiry report that "A fact finding enq2uiry was conducted by a Committee nominated by DRM and Sri Ch. Purusottam, Cabin Master (SWM), who was on duty in the South Cabin was made primary responsible along with others. Based on the report of the Enquiry Committee Sri Ch. Purusottam, Cabin Master was issued with a major penalty charge sheet bearing No. A1/18/H/2000, Dt. 19.12.2000 with the following charges." (emphasis is mine.)
>
> That the Speaking Order of the Disciplinary Authority (in short DA) contains inter-alia in the first paragraph that "Accordingly a fact finding enquiry was conducted by a JAG Committee. The Enquiry established that Sri Ch. Purusottam, Cabin Master, South Cabin/GTA was 'Primary Responsible' for the averted collision .... Basing on this Report, a Major Penalty charge sheet was issued and acknowledged by Sri Ch. Purusottam on 21.12.2000." (emphasis is mine). The said Speaking Order further mentions in 2nd paragraph inter-alia that "This violation of Rules has been established in Fact Finding Enquiry also."
>
> That it is apparent from the above three documents viz., (1) Charge Sheet, (ii) Enquiry Report of the Inquiry Officer and (iii) Speaking Order of the DA that the DA has placed utmost credence on the Fact Finding Enquiry Report (in short the Report submitted by the three J.A.Grade Officers and accepted by the DRM and has issued the Charge Sheet. A conjoint reading and analysis of the

impugned C/S, Enquiry Report of the IO and the Speaking Order of the DA would show that both the DA and the IO, who is direct subordinate to the DA purport to rest on the said Report submitted by the JAG Officers specially when it has been accepted by the DRM and communicated to the Head Quarters. But neither a copy of the said Report has been supplied tome as a relied upon document (excepting one page of final conclusion as 'findings' in one sentence) not the authors of the Report were examined by the prosecution in my presence and thereby I have been deprived of the opportunity to cross-examine them to prove that the Report is not free of defects and the Report is the outcome of pre-conceived ideas of the Fact Finding Officers who have only substantiated the prima facie cause of the accident as was reported by the senior most Officer available at the site on the day of the accident. Once the mention of the Report has been made in the C/S and has also been relied upon as a sole proof of erasing and manipulation of records, the entire Report with the Annexures must have been produced and the authors of the Report must have been subjected to be cross-examined by the Charged Officer. The Report with Annexures should have not only been produced but also proved which has not been done. Normally such documents are 'dead evidence' unless proved by a 'live evidence' for which the authors and custodian of the document need be examined/cross/examined.

That it is manifest that the members of the JAG Fact Finding Enquiry Committee were nominated by the DRM/KUR (as has been mentioned by the IO in the Inquiry Report). He is understood to have accepted the Report submitted by the Committee and reported to the HQ basing on which the C/S has been issued by the DA in the mechanical process without application of mind.

That it is evident from the above discussion that not only the charges have been framed against me but also punishment has been imposed merely on the basis of the Report which has raised an accusing finger at me but without any reference to the contemporaneous records, files, registers based on which such report has been authored by the JAG Committee.

That it is contended that the charge memorandum shows that the DA has failed to keep his mind while framing the charge memorandum and thereby the fundamental principled relating to natural justice has been violated. The C/S itself shows that the DA has come to the conclusion, basing on the Report, that ".... committed gross neglect of duty in that he failed to put the lever collars ..... also failed to exchanged the line block PNs .....failed to ascertain that R/1 of GTA station is clear .... He further committed mistake.....failed to enter the TSR ..... and failed to exchange PNs .....he erased and manipulated documents for the cognizable offences committed by Sri Ch. Purusottam ....." From the above it would be seen that the DA had made up his mind and decided the case against me basing on the Report which was authored by the JAG Officers and accepted by the DRM/KUR. Thus, the charge memorandum cannot be construed to be a show cause notice against the charges said to have been committed by me. Beside quoting the Report in support of proving the allegations, after reciting the allegations against me, the charge sheet concluded that "As a result, for the cognizable offences committed by Sri Purusottam, DMU-5 admitted on R/1 (blocked line) which could have created a hazardous accident between DMU – 5 and D/Engg Spl....", it would seem that the DA had made up his mind to the effect that I was guilty of violating different paras of G&SR and Rule 3.1(ii) of RS (Conduct) Rules, 1968. Thus, it has created an apprehension in my mind that the DA had already decided my case basing on the Report before conducting the formal enquiry under D&A Rules and hence impartial enquiry was not possible.

That under the circumstances stated above, the charge sheet is illegal as it was issued with a close mind having been influenced by the Report.

That each paragraph of the Findings of the IO as mentioned in the Enquiry Report is mentioned below and my remarks are juxtaposed against each of them.

(i) "Sri Ch. Purusottam, the Cabin Master of South Cabin did not put lever collar on the concerned slot, signal and point levers for Line No. 1 after blocking of the said line by down Diesel Engineering Special. Thus, he violated the provisions made under SR 5.04.01(a)."	(i) This finding has been based on 'no evidence' There is neither any oral evidence of the prosecution witnesses examined in this case nor any documentary evidence as no document has been cited as RUD. SR 5.04.01(a) deals with the duties of Station Master. Hence, the allegation of violation of this Rule does not arise as I am a Cabin Master. The duties of Cabin

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Master (SWM) have been detailed under SR 4.42.02 which has not been alleged to have been violated.

(ii) "The slot was released by him forlineNo.1 asked by the SM on duty for admission of UpDMU-3 when line was occupied by Down Diesel Engineering Special for which the line Block PRIVATE NUMBER was exchanged by him. The responsibility for ascertaining the clearance ofs the nominated line for reception of train as in SR 3.38.01 has been distributed amongst the Station Master and Cabin Master of the station and specified at Para 6.2 of the Station Working Rule. In this case, the clearance of line was ascertained by him for the portion from Fouling Mark to Up Advanced Starter and in fact the said portion was neither blocked nor obstructed."

(ii) The Inquiry Officer has been kind enough to record that there has been no violation of SR 3.38.01 as my portion of the line was neither blocked nor obstructed.

(iii) "As per the statement of Sri Purusottam he set the route for main line i.e. against the line No. 1 which was blocked by Down Diesel Engineering Special. The statement may be taken as authentic as 6004 Down Mail passed through the station on down main line. Hence, the provisions of SR 3.51.06(a) have not been violated by him."

(iii) Here also the Inquiry Officer has put on record that the provision of SR 3.51.06(a) has not been violated by me.

(iv)"Regarding the charge for not making the entry in the Train Signal Register about blocking of line No. 1 by D/Engineering Special, Sri Purusottam has stated the PRIVATE NUMBERS were exchanged with the Station Master on duty and the numbers are written in the Train Signal Register in red ink but blocking of line is not mentioned, SR 5.23.01 relates to securing of vehicles at stations and in this case though the engine. There is doubt whether this can be termed as stabled load. But in this case when the Private numbers were exchanged the particulars could be mentioned in red ink in the remarks column."

(iv) Here the Inquiry Officer has expressed his doubt whether the D/Engg/Spl. whose engine was shut down can be termed s 'stabled load' so as to attract the provisions of SR 5.23.01 which has been said to have been violated by me. I would like to mention that SR 5.23.01 shall be read in conjunction with the GR 5.23 as per SR 1.02(55).01, which deals with "securing of vehicles at stations." A "Material train" has been defined by GR 1.02(39) as "Material train means a departmental train intended solely or mainly for carriage of railway material when picked up or put down or for execution of works, either between stations or within station limits." As such, the D/Engg/Spl. is a 'material train'. The protection of material train has been detailed in Rule GR 4.64 and SR 4.64.01(b) deals with stabling of material train on running line. A reading of GR 4.64 & SR 4.64.01 (b) indicate that the D/Engg/Spl was not stable on the running line. This has been further confirmed by Sri G.R.Rao, Driver of D/Engg/Spl in answer to Question No. 12 who has stated that "my train was not stabled but detained for want of DDA." During fact finding enquiry of JAG Officers' Committee, in answer to Q. No. 4 (RUD 5), Sri G.R.Rao, Driver has stated that he was not aware of any order No. given by control to stable his train. The Guard of the E/Engg/Spl was neither examined by the JAG Officers' Committee nor was examined as prosecution witness. Hence, the question of mentioning in red ink in the Train Register as per SR 5.23.01 does

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not arise.

(v) "The charge of erasing and manipulation in the train passing document has been admitted by Sri Purusottam. Such corrections however, in no way helped to suppress the fact that slot was released for line No. 1."

(v) I have never denied that I did not give slot for R/1. Hence, the question of suppressing the fact that slot was released forR/1 does not arise. The erasing was done as per advice of SM on duty as probably he wanted to suppress something. But since the averted collision took place, I have been confessing on every occasion that slot was given by me for R/1 as per advice of SM in the usual course. The said document which is sid to have been erased and manipulated has not been cited as RUD. Without citing and producing the records, the prosecution has tried to substantiate the allegation.

That in view of what is afore stated, the conclusion of the IO that "the charges framed against the charged official Sri Ch. Purusottam has been substantiated partially" has been drawn basing on 'no evidence'. There is absolutely neither any documentary evidence nor any oral evidence in support of any of the charges.

That the punishment as has been decided by the Disciplinary Authority reads as under "….. I have decided to revert you to the post of LM(B) in grade Rs. 2650-4000/-(RSRPS) on pay Rs. 4000/- (maximum of the grade) from the post of Cabin Master till attaining superannuati9on under age rules i.e. 30.11.2003 (AN). He should retire in that post only as LM(B) as a measure of punishment to meet the ends of justice, with immediate effect."

(as per Punishment Notice)

"……it is decided to revert him to his former post of LM(B) in grade Rs. 2650-4000/- from the present post of Cabin Master in grade Rs. 4000-6000/-till attaining superannuation under age rules i.e. 30.11.2003(AN) and he shall retire in that post only as LN(B).

(as per Speaking Order)

That an analysis of the Punishment Notice and the Speaking Order of the DA attached to it would indicate that the DA has decided to impose certain punishment but the punishment has not actually been imposed by any order whatsoever.

That it appears that the DA has decided to impose punishment as per clause (vi) of Rule 6 of the RS(D&A) Rules 1968 which is reproduced below for ready reference:

"(vi) Reduction to a lower time scale of pay, grade, post, or service, with or without further directions regarding conditions of restoration to the grade orpo9stofr service from which the Railway servant was reduced and his seniority and pay on such restoration to that grade, Post or service."

That the above mentioned clause (vi) states that such reduction as a penalty could be ordered "with or without further directions regarding conditions of restoration to the grade or post or service from which the Railway servant was reduced …." In other words, the DA may reduce a Railway servant in rank from a higher grade to a lower grade with further directions for restoration to the higher grade. Alternatively, he may not issue any such directions. These the only two alternatives permissible under clause (vi) of the above Rule. There is no provision in the rule according to which the DA can direct as he has decided in this case to revert me to my former post of LM(B) from the present post of Cabin Master till attaining superannuation under age rules i.e. 30.11.2003 and I shall retire in that post only as LM(B). In other words, the reduction is permanent. It is, therefore, clear that the DA in my case has gone far behind than what is statutorily prescribed under Rule 6 Clause (VI) of the RS (D&A) Rules, 1968. In support of my above contention, reference may please be made to the decision of Hon'ble CAT/Madras in the case of R. Muthukrishnan v UOI reported in ATR 1993 (1) CAT 623.

That the DA has decided to impose four penalties instead of one. The proposed penalties are as under:

Reduction in rank from Cabin Master (SWM) to the post of LM(B) permanently.

Reversion from Group 'C' to Group 'D' permanently.

Withholding of promotion in future permanently.

Reduction of pay from Rs. 5200/- in Group 'C' in grade Rs. 4000-6000/- to Rs. 4000/- in Group 'D' in grade Rs. 2650-4000/- permanently.

That withholding of promotion is a separate minor penalty as contained under Clause (ii) of Rule 6 of RS (D&A) Rules 1968. The DA has no jurisdiction to impose this penalty in addition to the penalty under Clause (vi) of the same Rule (reduction in rank). The DA can impose only one of the penalties specified under Rule 6 of the RS (D&A) Rules, 1968.

That every Punishment Notice imposing the penalty of reduction to a lower scale of pay, grade, post or service should invariable specify the following:

The date from which it will take effect and the period for which the penalty will be operative. The penalty of reduction to a lower time scale of pay, grade, post or service cannot be ordered as a permanent measure. It is obligatory to indicate the specific period for which the penalty should remain operative. But in the present case, the DA has not mentioned the date from which the proposed punishment will take effect.

That throughout my service career, I have not caused any accident and in recognition of my commendable accident-free service of 20 years (since I became a staff of safety category), I have been awarded with as merit certificate and a cash award of Rs. 2000/- by the DRM/KUR on 10.05.97. After this date also, my service sheet may please be referred to which will indicate my continuous accident-free service till date.

That in the conspectus of the facts and the law as discussed above, the punishment notice issued by the DA may kindly be cancelled and I may be allowed to serve the Railways with my accident-free service as Cabin Master (SWM). "

4. The Appellate Authority rejected the contentions raised by the Applicant in his appeal thereby upholding the order of punishment in order under Annexure-A/6 dated 27.11.2001. It reads as under:

"I have gone through the entire details of the case including the appeal preferred by the party in this case.

The party had been given enough opportunity to put up his case in defence of his act during the accident enquiry stage and during the D&A enquiry stage. As such, the party cannot now state that adequate opportunity was not given to him to defend his case in this case.

The party had committed a grave mistake during execution of his duty by wrongly admitting a Passenger carrying train no a yard line already occupied by a standing goods train. All the witnesses (circumstantial) in this case clearly point out that the party did commit a grave error in execution of his duty as against all the laid down rules towards safe working of trains. By his act in execution of duty carelessly, he had played with life of innocent Passengers of the DMU train and in the process tarnishing the linage of the Railways to a very great extant.

In the normal course for his act of omissions during execution of his duty, he should have been punished by imposition of removal from service. But DA has taken much lenient view in this case duly taking your past service records etc. by imposing much lesser punishment than what should

have been imposed under normal circumstance and laid down Yard stick of punishment.

As such the punishment imposed by the DA shall stand and I do not find any reasons/arguments in favour of the party to reconsider the case for reduction of the punishment in this case."

5. As it appears, thereafter, the applicant preferred revision under Annexure-A/8 dated 23.09.2003. The Revisional Authority rejected the revision of the Applicant in order under Annexure-A/9 dated 8.3.2004 on the following grounds:

> "It is seen that the employee superannuated on 30.11.2003. Therefore, the Review position is not being considered. File of papers are returned herewith."

6. We have also gone through the provisions of the Rules vesting powers with the Appellate as well as Revisional Authority. It provides as under:

> **22(2). CONSIDRATION OF APPEAL:**
>
> (1) In the case of an appeal against an order imposing any of the penalties specified in Rule 6 or enhancing any penalty imposed under the said rule, the appellate authority shall consider-
>
> (a) Whether the procedure laid down in these rules has been complied with, and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;
>
> (b) Whether the findings of the disciplinary authority are warranted by the evidence on the record; and
>
> (c) Whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe; and pass orders –
>
> (i) confirming, enhancing, reducing or setting aside the penalty; or
>
> (ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such directions as it may deem fit in the circumstances of the case.
>
> Provided that –
>
> (i) the Commissions shall be consulted in all case where such consultation is necessary;
>
> (ii) if the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (v) to (ix) of Rule 6 and an inquiry under Rule 9 has not already been held in the case, the appellate authority shall, subject to the provisions of Rule 14, itself hold such inquiry or direct that such inquiry be

held in accordance with the provisions of Rule 9 and thereafter on a consideration of the proceedings of such inquiry make such orders as it may deem fit;

(iii) if the enhanced penalty which the appellate authority proposes to impose, is one of the penalties specified in clauses (v) to (ix) of Rule 6 and an inquiry under Rule 9 has already been held in the case, the appellate authority shall, make such orders as it may deem fit; and

(iv) subject to the provisions of Rule 14, the appellate authority shall –

(a) where the enhanced penalty which the appellate authority proposes to impose, is the one specified in clause (iv) of Rule 6 and falls within the scope of the provisions contained in sub rule (2) of Rule 11; and

(b) where an inquiry in the manner laid down in Rule 9, has not already been held in the case, itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of Rule 9 and thereafter, on a consideration of the proceedings of such inquiry, pass such orders as it may deem fit; and

(v) no order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity, as far as may be, in accordance with the provisions of Rule 11, of making a representation against such enhanced penalty."

25. REVISION:

(1) Notwithstanding anything contained in these rules-

(i) the President; or

(ii) the Railway Board; or

(iii) the General Manager of a Railway Administration or an authority of that status in the case of a Railway servant under his or its control;

(iv) the appellate authority not below the rank of a Divisional Railway Manager, in cases where no appeal has been preferred;

(v) Any other authority not below the rank of a Deputy Head of a Department in the case of a Railway servant serving under its control may at any time, either on his or its own motion or otherwise, call for the records of any inquiry and revise any order made under these rules or under the rules repealed by Rule 29, after consultation with the Commission where such consultation is necessary, and may-

(a) Confirm, modify or set aside the order; or

(b) Confirm, reduce, enhance, or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed; or

(c) remit the case to the authority which made the order or to any other authority directing such authority to make such further inquiry as it may consider proper in the circumstances of the case; or

(d) Pass such other orders as it may deem fit."

7. The Appellate Authority has to consider the case of the applicant as a quasi judicial authority as per the decision of the Hon'ble Supreme Court in the case of **Ram Chandra –v- Union of India** reported in 1986 (2) SLR 608, **Apparel Export Promotion Council-v-A.K.Chopra,** reported in 1999 SCC (L&S) 405 and **Narinder Mohan Arya –v-United India Insurance Co. Ltd**, reported in (2006) 4 SCC 713. The Appellate Authority must give reasons even while affirming the order of the Disciplinary Authority. In our opinion, an order of affirmation need not contain elaborate reasons, but that does not mean that the order of affirmation need not contain any reasons whatsoever. The order must contain some reasons, at least in brief, so that one can know whether the appellate authority has applied its mind while affirming or reversing or modifying the order of the Disciplinary Authority. The purpose & disclosure of reasons is that the people must have confidence in the judicial or quasi-judicial authorities, unless the reasons are disclosed, how can a person know whether the authority has applied its mind or not? Also, giving of reasons minimizes chances of arbitrariness. Hence, it is an essential requirement of the rule of law that some reasons at least in brief must be disclosed in a judicial or quasi judicial order, even if it is an order of affirmation. The reasoned order should be in accordance with the judgment of the Hon'ble supreme Court reported in 2004 (7) SCC 431 –**Cyril Lasrado (Dead) by Lrs and Others –v-Juliana Maria Lasrado & Another.**

> "12. Even in respect of administrative orders Lord Denning M.R. in Breen v. Amalgamated Engineering Union (All ER p.115) "the giving of reasons is one of the fundamentals of good administration" In

Alexander Machinery (Dudley) Ltd. Vrs. Crabtree it was observed "Failure to give reasons amounts to denial of justice "Reasons are live links between the mind of the decision taker to the controversy in question and the decision or conclusion arrived at". Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The "inscrutable face of the sphinx" is ordinarily incongruous with a judicial or quasi judicial performance."

Reasons is the heart beat of every conclusion, without the same it becomes lifeless as held by Hon'ble Supreme Court in the case of **Raj Kishore Jha v State of Bihar** reported in (2003) 11 SCC 519. How to consider the case is as directed by the Hon'ble Supreme Court in the case of **R.P.Bhatt v Union of India** reported in (1986) 2 SCC 651 and **Divisional Forest Officer, Kothagundum & Ors v Madhusudan Rao** reported in 2008 (2) SC 253.

It is also noticed that the Applicant has taken several grounds in support of his plea that there has been gross injustice caused to him in the decision making process of the matter by the Disciplinary Authority (quoted above). But the Appellate Authority rejected such contentions in general without meeting/answering as to how the points raised by him are not sustainable. This is a serious lacuna in the orders of the Appellate as well as Revisional Authority being opposed to the Rules/instructions as well as law laid down by Their Lordships of the Hon'ble Apex Court **Bhartesh C.Jain and others v Shoaib Ullah and Another,** (2008) 1 SCC (L&S) 616.

7. On being pointed out, Learned Counsel appearing for the Respondents contended that it is not necessary on the part of the Appellate as well as Revisional Authority to pass reasoned order especially when the fault

of the applicant was clearly found out in the joint enquiry conducted by J-grade officers and accordingly Learned Counsel appearing for the Respondents vehemently opposed the contention of the Applicant. We have carefully considered the submissions of Learned Counsel for both sides. But we find no merit in the contention of Learned Counsel for the Respondents that there is no need to pass reasoned order when Rule provides so.

8. Above being the position of fact and law and in view of the fact that the orders of the Appellate as well as Revisional Authority are not in accordance with Rules and law cited above , we are of the considered view that both the orders are not sustainable in the eyes of law and both the orders (Annxure-AA/6, dated 27.11.2001 & A/9 dated 08-03-2004) are accordingly quashed/set aside and as a result, the matter is remitted back to the Appellate Authority with direction to give a fresh consideration to the appeal of the Applicant in accordance with Rules/Law after affording a personal hearing to the Applicant and communicate the result of such consideration to the Applicant within a period of 03(three) months from the date of receipt of copy of this order.

9. In the result, with the aforesaid observation and direction this OA stands disposed of. No costs.

(C.R.Mohapatra)
Member(Admn.)

(G.Shanthappa)
Member(Judl.)