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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

OA No.81 of 2007

Purnendu Sekhar Pati Applicant
Versus
Union of India & Others. Respondents

Order dated: 21st April, 2010

C O R A M

THE HON'BLE MR.B.V.RAO, MEMBER (JUDICIAL)
And
THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (ADMN.)

Under Rule 9 of Railway Servants (D&A) Rules, 1968, the applicant was visited with the punishment of reversion from the post of Senior Section Engineer (Works) in the scale of pay Rs.7450-11500/- to the grade of Section Engineer (Works) in the scale of pay Rs.6500-10500/- for a period of 2 years on cumulative basis and during the period of penalty the basic pay shall remain fixed at Rs.6500/- and the seniority shall be adversely affected accordingly vide Memorandum No. MCSW/M/D&A/PSP-44/1184 dated 24.05.2006 (Annexure-A/8). Soon after preferring the appeal dated 07.07.2006, he approached this Tribunal in OA No.737 of 2006. In order dated 31.10.2006, this Tribunal disposed of the matter by directing the Respondents to consider and dispose of the appeal of the applicant within a period of six weeks. Thereafter, the Appellate Authority communicated its order under Annexure-A/12 dated 12.09.2006 rejecting the appeal of the Applicant. Being aggrieved by the said order, the Applicant filed the present Original Application seeking to quash the charge sheet under Annexure-A/3 dated 03.09.2004, the report of the IO under Annexure-A/6 dated 18.04.2006, the order of punishment under Annexure-A/8 dated 24.05.2006, the order of the Appellate Authority under Annexure-A/12 dated 09.12.2006 and to direct the Respondents to reinstate the applicant to his former post of Senior Section

Engineer (Works) in scale Rs.7450-11500/-, which he was holding prior to implementation of the punishment with his seniority and to pay him all his consequential financial benefits retrospectively forthwith on various grounds mentioned in this Original Application. Respondents by filing counter opposed the contentions made by the applicant in support of his prayer in the Original Application. Applicant has also filed rejoinder.

2. Heard the rival submission of the parties and perused the materials placed on record. On perusal of records, it is noticed that the Appellate Authority rejected the appeal of the applicant in a very cryptic and unspecific order without examination of the appeal of the applicant in the manner provided in Rule 22(2) of the Railway Servants (Discipline & Appeal) Rules, 1968, the relevant portion of which is appended below:

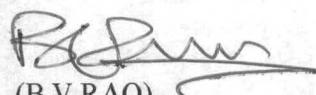
“22.(2) In the case of an appeal against an order imposing any of the penalties specified in Rule 6 or enhancing any penalty imposed under the said rule, the appellate authority shall consider—

- i. 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;
- ii. whether the findings of the disciplinary authority are warranted by the evidence on the record; and
- iii. whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe; and pass orders—

1. confirming, enhancing, reducing or setting aside the penalty; or
2. 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 circumstance of the case;”

3. This position has also been highlighted in the subsequent Railway Board's instructions [No. E(D&A)78 RG 6-11 dated 3.3.78, E (D&A)86 RG 6-1 dated 20.1.1986, E (D&A) 91 RG6-122 dated 21.2.92, E(D&A) 2002/RG 6-27 dated 24.9.2002] providing that while exercising disciplinary powers, the disciplinary and appellate authorities perform quasi-

judicial functions. Therefore, it is an essential legal requirement that in the case of decisions by quasi-judicial authorities, the reasons should be recorded in support thereof meeting/answering all the points raised by the Applicant in his appeal. The above instructions issued by the Railway Board are also well supported by the decisions of the Hon'ble Apex Court in the cases of **Mahavir Prasad Vrs. State of UP**-AIR 1970 SC 1302, **Ram Chander vs. Union of India and others**, AIR 1986 SC 1173 and **Director (Mkt.) Indian Oil Corp. & Anr. Vs. Santosh Kumar** – 2007(1) SLJ 46 (SC). In view of the above, dealing with the contentions raised by Learned Counsel for both sides may prejudice the decision making process of deciding the appeal of the Applicant as we propose to direct for reconsideration of the appeal of the Applicant and as such we refrain from doing so. In view of the above, without expressing any opinion on the merit of the matter, this Original Application is disposed of with direction to the Respondent No.3 (the Chief Workshop Engineer, ECoRly, Chandrasekharpur, Bhubaneswar) to give a fresh look/fresh consideration to the appeal of the applicant through a reasoned order meeting/answering all the points raised by the applicant in his appeal under Annexure-A/10 dated 07.07.2006 within a period of 90(ninety) days from the date of receipt of this order and communicate the result thereof to the Applicant. There shall be no order as to costs.



(B.V.RAO)
MEMBER (JUDL.)



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