

12 CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A No. 531 of 2008

R.K.Upadhyya Applicant

Vs

UOI & Ors. Respondents

.....

Order dated - 20.7.2011.

CORAM:

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

AND

THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)

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Having heard Learned Counsel appearing for both sides, perused the materials placed on record.

The Applicant is at present working as T.C. in the office of the Divisional Commercial Manager, East Coast Railway, Sambalpur. Vide order under Annexure-A/11 dated 10.08.2007, the Applicant was imposed with the punishment of reduction of post in time scale of pay and rate of pay from Hd. TC in time scale of pay Rs.5000-150-8000/- and pay Rs.5450 to that of the post of Ticket Collector in time scale of Rs.3050-4590/- on rate of pay Rs.3050/- per month for a period of 24 months with non-cumulative effect and immediate effect with further order that the punishment shall not have the effect of postponing his further increment pay and seniority on restoration at the end of the disciplinary proceedings initiated against him under Rule 9 of the Railway Servants (D&A) Rules, 1968. In Annexure-A/12, the

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Applicant preferred appeal to the Additional Divisional Railway Manager, East Coast Railway, Sambalpur. The Disciplinary Authority who imposed the punishment on the Applicant, in order under Annexure-A/13 dated 02-04-2008 intimated the Applicant that his appeal was rejected by the Appellate Authority. Hence this OA seeking to quash the order Annexures-A/11 & A/13 and to restore the position of the applicant and pay him back his salary.

The Respondents have filed their counter in which they have opposed the contentions raised by the Applicant in his OA and for the grounds taken therein have prayed to dismiss this OA.


The contention of the Learned Counsel for the Applicant is that the illegality committed by the disciplinary authority in reaching the conclusion and issuing the order of punishment was repeated by the Appellate Authority firstly because the appellate authority rejected the appeal without considering all the points raised by him in his appeal and secondly in communicating the gist of the order of the appellate authority by the Disciplinary Authority. Though this was rebutted in course of hearing by Learned Counsel appearing for the Respondents after going through the order of the Appellate Authority in

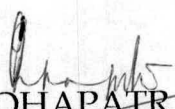
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Annexure-A/13 we are fully convinced that the procedure adopted by the Respondents was not supported by Rule or judge made laws on the subject. Time and again it has been reiterated by various courts so also by the Railway Board for providing reason in support of the decision especially taken in disciplinary proceedings either by the DA or AA. But clear departure is discernible in the present case. In view of the above, without expressing any opinion on the merit of the matter, we set aside the order of the Appellate Authority in Annexure-A/13 and remit the matter back to the Appellate Authority for giving a fresh consideration on the appeal of the Applicant and communicating its decision to the Applicant in a reasoned order within a period of 30(thirty) days from the date of receipt of copy of this order.

With the aforesaid observation and direction this OA stands disposed of. There shall be no order as to costs.


(A.K.PATNAIK)
Member (Judicial)


(C.R.MOHAPATRA)
Member (Admn.)