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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK


Original Application No.471 of 2010  
Cuttack this the 04<sup>th</sup> day of May 2012

**Jaya Prakash Dandpat** ..... 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 Tribunal or not? ☒

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

  
(A.K. PATNAIK)  
Member (Judl.)

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**CUTTACK BENCH, CUTTACK**

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Cuttack this the 04<sup>th</sup> day of May, 2012

**CORAM**  
**HON'BLE SHRI C.R. MOHAPATRA, ADMINISTRATIVE**  
**MEMBER**  
**AND**  
**HON'BLE SHRI A.K. PATNAIK, JUDICIAL MEMBER**

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**Shri Jaya Prakash Dandpat, aged about 39 years, Son of Sri Jatin Chandra Dandapat of Village/Po-Singtia, PS Badasahi, Dist. Mayurbhanj.**

**...Applicant**

By the Advocates: M/s. B. Dash. C. Mohanta, Counsel.

-Versus-

1. **Union of India represented through its General Manager, East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.**
2. **Addl. Divisional Railway Manager, East Coast Railways, Khurda Road, PO/PS. Jatni, Dist. Khurda.**
3. **Sr. Divisional Mechanical Engineer, East Coast Railways, Khurda Road, PO/PS. Jatni, Dist. Khurda.**
4. **Sr. Divisional Electrical Engineer (OP), East Coast Railway, Khurda Road, PO/PS. Jatni, Dist. Khurda.**

**...Respondents**

By the Advocates: Mr. M. K. Das, Counsel.

**O R D E R**

**A.K. PATNAIK, MEMBER (JUDL):**

The facts of the matter, in nut shell, are that the applicant while working as Loco Pilot (Goods) under Respondents was served with a Memorandum of charge under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 dated 16-08-2007 which reads as under:

**"That the said Shri J.P. Dandpat while functioning as Loco Pilot (G) under Crew Controller / E.Co Railway / Talcher, on date 10.04.2007 was booked for CPT-A at**

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02.45 hours stopped shunting on Spur No.1 at 14.15 hours blocking Spur No.2 and reverse line by ME LE and demanded relief due to long hours. Hence, SMI-51 Spur No.7 could not be drawn out from 14.15 to 15.15 hours. The inconvenience made from 14.15 to 15.15 hours i.e. 1 hour to draw out Sput No.7, railway has bear huge loss. He has just completed 12 hrs from Sign ON at the time of stopping of shunting. He had done long hours only for the sake of long hours. He has violated item No.4 and 6 of JPO-6 being signed by CEE / CME and COM of E.Co Railway/BBS.

Thus, he violated the rule 3.1(ii) and (iii) of Railway Services (Conduct) Rules, 1966 and for this rendered himself liable for disciplinary action under Railway Servants (D&A) Rules, 1968 as amended from time to time."

ii. The matter was enquired into. Based on the report of the IO and all other connected materials, the Disciplinary authority, vide notice dated 06/13-05-2009 imposed the punishment of reversion from Loco Pilot (Goods) Gr.II to Loco Pilot (Shunter) for a period of 12 months. The said notice of punishment dated 06/13.05.2009 was challenged by the Applicant in OA No. 241 of 2009 which was disposed of by this Tribunal on 04.06.2009 granting liberty to the applicant to prefer an appeal and with direction to the Appellate Authority to consider the case of the Applicant and communicate the result thereof within a stipulated period specified in the order itself.

iii. On examination of the appeal of the Applicant vis-à-vis the records of the Disciplinary Proceedings, the Appellate Authority i.e. Sr. DEE (OP)/ECoRly/KUR sent a notice dated 30-03-2010 to the Applicant for enhancement of the punishment imposed on the applicant by the Disciplinary Authority (DME/ECoRly/KUR).

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iv. Against the said notice dt. 30-03-2010 applicant preferred appeal to the Sr. DEE (OP)/ECoRly/KUR dated 15-04-2010 who after examination of the matter, vide order dated 24.05.2010, held that ends of justice would be met by imposing the punishment of 'Dismissal from service with immediate effect' on the applicant and, accordingly, the applicant was communicated the result of the appeal through the SMR/ECoRly/CTC in compliance of the order of this Tribunal in OA No. 241 of 2009 vide letter dated 24.05.2010.

v. Being aggrieved by the enhanced order of punishment and disposal of the appeal, the applicant preferred appeal to the ADRM, ECoRly, KUR and soon thereafter approached this Tribunal in the instant OA with the following prayers:

- (a) **The Original Application may be allowed;**
- (b) **The operation of the orders at Annexure-7 and 9 may be quashed;**
- (c) **The respondents may be directed to reinstate the applicant in his former post and grant him his consequential benefits;**
- (d) **Such other order(s)/direction(s) may be passed in giving complete relief to the Applicant.**

vi. This Tribunal while issuing notice to the Respondents to file counter, vide order dated 14.09.2010 granted liberty to the Respondent No.2 to dispose of pending appeal of the Applicant within a period of thirty days and in compliance with the said order of this Tribunal, the Appellate Authority considered the appeal of the applicant but did not find any ground to interfere in the order of punishment imposed on the applicant

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and communicated the same to the Applicant vide letter dated 29.09.2010.

2. Respondents filed their counter in which it has been stated that the Departmental Proceedings were drawn up against the applicant on the alleged charge. The matter was enquired into through duly appointed IO in which the applicant participated and he was allowed to defend his case properly by giving all reasonable opportunity. Since the allegation leveled against the applicant was proved, the IO submitted the report holding the applicant guilty of the charge. Thereafter the disciplinary authority imposed the punishment following the Rules, but the appellate authority did not find the punishment commensurate with the offence and therefore, in exercise of power issued notice to the applicant after considering the reply for enhancement of the punishment. On appeal the punishment was upheld by the appellate authority. There being no violation of any of the rules and principles of natural justice having been complied with there is no ground in this OA to interfere by this Tribunal and accordingly, Respondents have prayed for dismissal of this OA.

By filing rejoinder, applicant more or less has reiterated the stand taken in the OA. We have heard Learned Counsels for both sides, perused and perused the materials placed on record.

Mr. B. Dash, Learned Counsel appearing for the Applicant contended that the Disciplinary authority did not appoint any Presenting Officer in the instant case. The evidence on behalf of the disciplinary authority has been presented by the Inquiry Officer while conducting the

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enquiry by taking the witness through the prosecution case. The Inquiry officer has also conducted regular examination and cross examination of the witness and puts questions suggesting the answer supporting the charge and in these circumstances, the enquiry is ~~(to be)~~ held vitiated being violative of principles of natural justice as a person cannot act as a prosecutor and judge simultaneously. The second contention of Mr. Das is that had the Appellate Authority considered all the points raised by him in his appeal, the appellate authority would not have upheld the punishment imposed by the lower authority. Hence he has prayed for the relief sought in this OA. This was objected to by Mr. M.K. Das, Learned Counsel appearing for the Respondents. His contention is that appointment of the PO is not mandatory. Therefore, conducting the enquiry without any appointment of PO cannot vitiate the enquiry. Similarly, it was contended by him that it is not correct that the Appellate Authority reached the conclusion without considering the points raised by the applicant in his appeal. He has contended that the appellate authority examined all the points raised by him and finally in a well reasoned order upheld the punishment imposed on the applicant which needs no interference by this Tribunal.

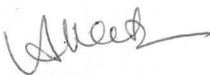
We have considered the rival submissions of the parties and perused the materials placed on record. Under the Rules, the Appellate Authority is duty bound to spell out the reasons in support of the order upholding the punishment imposed on a delinquent. The Appellate Authority is also under obligation to meet and answer all the points raised by the applicant in his appeal. In appeal the applicant has raised very

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pertinent questions, but as it reveals from the order of the appellate authority, the said points have not been considered by the Appellate Authority while upholding the order of punishment. In view of the above, we quash the order of the Appellate Authority under Annexure-A/9 and remit the matter back to the Appellate Authority to reconsider the appeal of the applicant and pass a reasoned order meeting all the points raised by him in his appeal 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. No costs.

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

  
(A.K. Patnaik)  
Member(J)