

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 823 of 1996

Present: Hon'ble Mr.P.K.Chatterjee, Administrative Member
Hon'ble Dr.D.K.Sahu, Judicial Member

SAMBHU SHEET
S/O Lakshman Sheet,
R/O Vill. Mirjapur, Bakipur,
P.O. Singur, Dist. – Hooghly,
Working as Gateman under
P.W.I., Chitpur, E.Rly.,
Sealdah Division.

APPLICANT

VERSUS

1. Union of India, through
The General Manager,
E.ly., 17 N.S.Road,
Calcutta – 1.
2. The Divisional Engineer (1),
Sealdah Division, E.Rly.,
Sealdah, Calcutta.
3. The Assistant Engineer (1),
E.Rly., Sealdah Division,
P.O. Sealdah, Calcutta.

RESPONDENTS.

For the applicant : Mr.B.Mukherjee, counsel

For the respondents : Mr.P.K.Arora, counsel

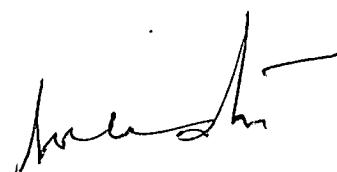
Heard on : 16.5.07

Order on : 22. 5. 07

O R D E R

P.K.Chatterjee, A.M.

The question involved in this case is short and simple. The applicant was charged sheeted and the punishment order was issued. The punishment order was for reduction in rank for 7 (seven) years which was issued on 20.10.93. The said order was challenged in this Tribunal through OA 568/94 on the ground that the penalty was imposed without supplying the copy of the enquiry report and without giving the applicant an opportunity to have his say on the report. Even the order of the Appellate Authority on the appeal

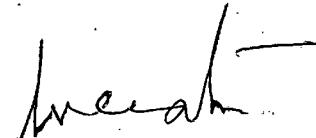


which the applicant has submitted against the order dated 20.10.93 was impugned in the OA. In the said appeal ^{The applicant} it specifically took the plea that the copy of the enquiry report was not furnished, nor a show cause was issued but the Appellate Authority mechanically upheld the order of the Disciplinary Authority. The order which was passed by the Tribunal on this OA was as follows :

- i) The order dated 20.10.93 passed by the disciplinary authority and the appellate order dated 14.1.94 passed the Divisional Engineer/I/Sealdah be hereby set aside.
- ii) The disciplinary authority shall immediately within one month, furnish a copy of the enquiry report to the present applicant asking him to show cause against the enquiry report, and on receipt of the representation from the applicant shall pass appropriate final order strictly in terms of the RS(DA) Rules, 1968 within one month of receipt of the reply to the show cause notice.
- iii) Be it noted that we have not gone into the merits of the allegations made in the application.
- iv) If the applicant is still aggrieved against the order of the disciplinary authority, he will be at liberty to approach this Tribunal afresh after exhausting the departmental remedies available to him under the rules.
- v) There shall be no order as to costs.

In pursuance of this direction of the Tribunal, the Disciplinary Authority issued a fresh order of punishment dated 8.11.94. In this order the applicant was punished with reduction to initial stage of Rs.775/- of the scale for a period of 7 (seven) years w.e.f. 1.11.93. The order of punishment was dated 8.11.94. After this order was issued the applicant filed a Contempt Petition saying that it was not in compliance with the orders as the previous punishment/Appellate order was quashed the date of effect of the punishment cannot remain the same i.e. 1.11.93. On hearing the CPC the Tribunal issued an order dated 2.4.96 dismissing the Contempt Petition but giving liberty to file original application if the applicant was aggrieved with the order dated 8.11.94 being violative of the relevant service rules. It is on the basis of this direction of the Tribunal that this OA has been filed impugning the order dated 8.11.94 on the ground that giving retrospective effect of punishment was not permissible under the relevant rules.

2. We have gone through the pleadings. The respondents have refuted the contention of the applicant saying that the punishment/Appellate order was quashed for technical defects as no show cause notice was issued nor a copy of the enquiry report was furnished. These two requirements are now been fulfilled and therefore their action in



of effect

reiterating the punishment with the same date, was not irregular. During hearing the ld.counsel for the respondents said that it was a revised version of the punishment/ Appellate order on the basis of the direction of the Tribunal and therefore there was no irregularity in the same.

3. This, however, was countered by the ld.counsel for the applicant who said that when the original punishment/ Appellate orders were set aside they became non est and therefore there was no question of the revised version of the order. The ld.counsel wanted the respondents to furnish the relevant provision of the disciplinary rules which authorized the Disciplinary Authority to issue punishment with retrospective effect. The ld.counsel for the respondents had no answer to the same.

4. We are of the view that the matter is simple. The relevant rules do not permit issue of punishment orders with retrospective effect. The order dated 8.11.94 therefore is not tenable and it is quashed. The applicant should ^{b2} restore to the stage of pay to which he was eligible if no punishment was issued and be given the consequential benefits including the monetary benefits. The Disciplinary Authority would be at liberty to issue fresh order of punishment which, however, would have only prospective effect.

5. With this order the OA stands disposed of. No order as to costs.

D. Thakur
MEMBER (J)

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MEMBER (A)

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