

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

OA 87 of 1996

Present : Hon'ble Mr. Mukesh Kumar Gupta, Judicial Member
Hon'ble Mr. M.K. Mishra, Administrative Member

Suniti Kr. Chatterjee

- VS -

S.E. Railway

For the Applicant : Mr. S.K. Dutta, Counsel

For the Respondents: None

Date of Order : 06-12-2004

ORDER (ORAL)

MR. MUKESH KR. GUPTA, JM

By the present application the applicant seeks the following reliefs :

- a) To cancel, withdraw and/or rescind the impugned order of suspension dated 9.10.91, charge sheet dated 3.6.92, enquiry report dated 8.4.94, order of removal from service dated 16.12.94 and rejection of appeal dated 6-12-95.
- b) To direct the respondents to allow the applicant to resume his due duties and functions, as usual as before.
- c) To direct the respondents to give all service benefits including the arrears of subsistence allowance from the date the applicant was placed under suspension till resumption of duty.

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2. It is contended that there has been no consideration of the applicant's appeal dated 23-12-1994 (Annexure-A/24) submitted on 26-12-1994 to the Chief Workshop Engineer, South Eastern Railway, Garden Reach, Calcutta. It is contended by Ld. Counsel for the applicant that till date no order except the order dated 6-12-95 has been passed by the Appellate Authority. It is also contended that the said order dated 6-12-95 could not be taken as appellate order under Rule 22 of Railway Servants (Discipline & Appeal) Rules, 1968.

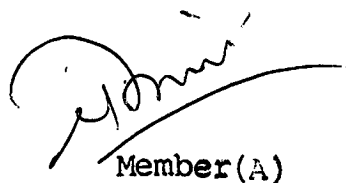
3. We have carefully considered the impugned penalty order dated 16-12-1994 whereby penalty was imposed upon the applicant by the Chief Workshop Manager, Wagon Repair Shop, Raipur, who happened to be the appointing authority of the applicant. Thereafter, an appeal was filed by the applicant well within time. The appeal has not been disposed of, though a speaking and reasoned order was required to be passed under the rules. As per the law laid down by the Hon'ble Apex Court in a case of Union of India & Ors. - Vs - Ram Chandra, AIR 1986¹¹⁷³ SC, the respondents are duty-bound to pass reasoned and speaking order after observing principles under the said rules, which has not been done.

4. We have perused the reply filed by the respondents. Since Ld. Counsel for the respondents is not present to-day we are constrained to decide the matter as the present case is of the year 1996. On perusal of the reply we do not find any specific plea about the appellate order passed by the competent authority under the rules. What has been stated is that before the order was issued, the applicant was given reasonable opportunity to defend himself and the authority, after considering the applicant's appeal, passed the said order. There is no justification not to entertain the applicant's aforesaid appeal.

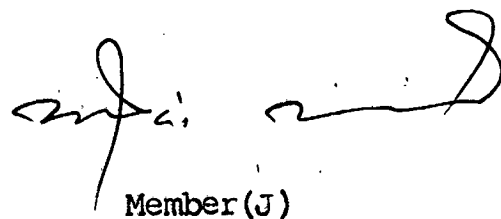


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In view of above, the O.A. is disposed of with direction to the Chief Workshop Engineer, S.E. Railway, Garden Reach, Calcutta, who is stated to be the Appellate Authority to dispose of the applicant's appeal within a period of two months from the date of receipt of a copy of this order after observing rules as well as law on the subject and pass a reasoned and speaking order. Accordingly, the O.A. is disposed of. No costs. It is made clear that we have not applied our minds to any of the grounds raised in the present application.



Member(A)



Member(J)

DKN