

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

No. O.A.441 of 1996

Present : Hon'ble Mr. Justice A.K.Chatterjee, Vice-Chairman.  
Hon'ble Dr.B.C.Sarma, Administrative Member.

BISWAS SHAW

... Applicant  
Vs.

1. Union of India through the General Manager, S.E.Railway, Garden Reach, Calcutta-43.
2. Divisional Railway Manager, S.E.Railway, Adra.
3. Divisional Electrical Engineer (G), S.E.Railway, Adra.
4. Additional Divisional Railway Manager, S.E.Railway, Adra.

... Respondents

For the applicant : Mr.B.C.Sinha, counsel.

For the respondents: Mr.S.Chaudhury, counsel.

Heard on : 19.8.1997

Order on : 1.9.1997

ORDER

A.K.Chatterjee, V.C.

The petitioner while working as ELM/Adra faced a disciplinary proceeding and a penalty of reduction in pay from Rs.1640/- to Rs.1600/- was imposed by an order dated 16.6.1995 but with retrospective effect from 1.6.1995. The petitioner took an appeal and the appellate authority, by an order dated 6.9.1995 upheld the punishment as above. In this application though the petitioner prays for quashing the charge sheet and also restoration of his pay to the stage as it existed prior thereto, Mr.B.C.Sinha, the 1st.counsel for

the petitioner at the time of hearing has confined his submission only to the point that the penalty of reduction in pay could not be imposed with retrospective effect.

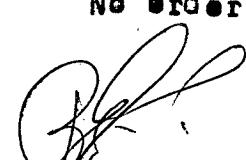
2. The respondents have filed a reply but nothing has been stated regarding legality of imposition of penalty with retrospective effect.

3. We have heard the 1d.counsel for the parties and perused the record before us.

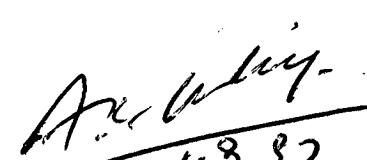
4. Even though the order passed by the appellate authority could be open to challenge on the ground that this cryptic order does not conform to the provisions of Rule 22 of the Railway Servants (D&A) Rules, 1968, still in view of the submission of the 1d.counsel for the ~~respective~~ petitioner, as indicated above, we are not disposed to consider any aspect of the petitioner's case other than imposition of penalty with retrospective effect. The 1d.counsel for the respondents has not been able to sustain such order and, therefore, we must hold that deduction of pay with retrospective effect is totally illegal.

5. On the aforesaid premises, the order passed by the appellate authority upholding the penalty as imposed by the disciplinary authority is set aside and the appellate authority is directed to pass a fresh order modifying the penalty as imposed by the disciplinary authority so as not to give any retrospective effect to it. Such order shall be passed by the appellate authority within six weeks from the date of communication of this order and monetary benefit to which the petitioner may be entitled consequent upon such modification, shall be released to him within two weeks thereafter.

6. No order is made as to costs.

  
(B.G. Sarma)  
Administrative Member

1/9/87

  
1.9.87  
(A.K. Chatterjee)  
Vice-Chairman