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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J_O_D_H_P_U_R.

Date of Order : 27.9.2000

O.A. No. 130/1997

Gajanand S/O Shri Chamandi Lal Sharma, aged about 41 years, R/O Railway Otr. No.T/2-J Suratgarh, Northern Railway, at present employed on the post of Sr. Booking Clerk under S.S. Suratgarh N/Railway, District Sri Ganganagar.

... Applicant

Vs

1. Union of India through General Manager, Baroda House, New Delhi, Northern Railway,
2. Chief Operating Manager, Northern Railway, Baroda House, New Delhi.
3. Additional Divisional Railway Manager, Northern Railway, Bikaner.
4. Senior Divisional Operating Manager, Northern Railway, Bikaner.

... Respondents

Mr. J.K. Kaushik, Counsel for the Applicant.

Mr. V.D. Vyas, Counsel for the Respondents.

CORAM :

Hon'ble Mr. A.K. Misra, Judicial Member

Hon'ble Mr. Gopal Singh, Administrative Member

O_R_D_E_R

(PER HON'BLE MR. GOPAL SINGH)

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant Gajanand has prayed for quashing the impugned orders dated 15.9.1993, 03/95, 22.9.95 and 12.6.96 placed at Annexure A/1, A/2, A/3 and A/4 with all consequential benefits.

Gopal Singh

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2. Applicant's case is that he was initially appointed as Correspondence Clerk with the respondent-department on 03.4.1975 and earned further promotions as Senior Clerk and Head Clerk in due course of time. He was served with a chargesheet for major penalty on 15.9.1993 (Annexure A/1). The enquiry officer held the charges as not proved. The Disciplinary Authority disagreeing with the enquiry officer held the charges as proved and imposed upon the applicant the penalty of reduction to the lower grade for five years with permanent loss of seniority and pay vide order dated 3/95 (Annexure A/2). In appeal the penalty was reduced to reduction to lower grade for a period of three years with permanent loss of seniority and pay, vide order dated 22.9.95 (Annexure A/3). Revision Petition filed by the applicant was rejected vide order dated 12.6.96 (Annexure A/1). Contention of the applicant is that (i) the points of disagreement of the DA were not conveyed to the applicant so as to enable the applicant to put up his defence, (ii) one Appellate Authority gave him personal hearing while the Appellate order has been passed by another authority and (iii) the Revision Petition has been rejected without application of mind on the part of Revisional Authority.

3. In the counter, the respondents have denied the application.

4. We have heard the learned Counsel for the parties and perused the records of the case carefully.

5. It is a fact (not denied by the respondents) that the Disciplinary Authority had disagreed with the enquiry officer, but the points of disagreement were never conveyed to the applicant thus violating principles of natural justice.

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Therefore, the order of the Disciplinary Authority cannot be sustained in the eyes of law. In AIR 1998 Supreme Court 2713 Punjab National Bank & Ors. Vs Kunj Behari Misra, Hon'ble the Supreme Court has held :

" As a result thereof whenever the disciplinary authority disagrees with the inquiry authority on any article of charge then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the inquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favourable conclusion of the inquiry officer. The principles of natural justice, as we have already observed, require the authority, which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to the representation before the disciplinary authority records its findings on the charges framed against the officer."



Thus, in the light of law laid down (as above), the Disciplinary Authority was required to convey the points of disagreement to the delinquent before recording its findings on the charges.

6. In the light of above discussion, we are of the view that this is a fit case for our intervention. Accordingly, we pass the order as under :

The Original Application is partly allowed. Disciplinary Authority order dated 03/95 (Annexure A/2) and consequential orders thereof are quashed. The responder will, however, be at liberty, if so advised, to re-start the departmental proceedings against the applicant from the stage of conveying the points of disagreement of the Disciplinary Authority to the applicant.

7. Parties are left to bear their own costs.

(Gopal Singh)
(GOPAL SINGH)
Adm. Member

J

27/9/2002
(A.K. MISRA)
Judl. Member