

Central Administrative Tribunal  
Jodhpur Bench, Jodhpur

...

Date of order : 1.2.2001

O.A.No. 267/1998

Arun Kumar Vaidya S/o Shri K.K.Vaidya, aged about 48 years  
R/o 1st, E-249, Jai Narain Vyas Colony, Bikaner, at present  
employed on the post of Guard 'A' Spl. , in the office of  
Station Superintendent, Bikaner, Northern Railway.

... Applicant.

Vs.

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

... Respondents.

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CORAM :

HON'BLE MR.JUSTICE B.S.RAIKOTE, VICE CHAIRMAN  
HON'BLE MR.A.P.NAGRATH, ADMINISTRATIVE MEMBER

.....

Mr.J.K.Kaushik, Counsel for the applicant.  
Mr.Vinit Mathur, Counsel for the respondents.

.....

O R D E R

PER HON'BLE MR.JUSTICE B.S.RAIKOTE :

In this application, the applicant has challenged  
the order of the disciplinary authority dated 11.11.1997



(Annex.A/2) and order dated 1.1.98 (Annex.A/3), modifying the punishment by the appellate authority.

2. The learned counsel appearing for the applicant contended that the applicant specifically pleaded for a personal hearing before the appellate authority but the appellate authority has not given him personal hearing and ultimately, it has passed a cryptic order vide Annex.A/3 dated 1.1.98, hence, the order of the appellate authority is illegal. He relied upon a judgement of the Hon'ble Supreme Court reported in AIR 1986 SC 1173. The learned counsel appearing for the respondents submitted that the applicant had filed an appeal and whatever the grounds he raised in the appeal, have been considered by the appellate authority, therefore, there is no illegality in the order of the appellate authority.



3. The fact that applicant requested for personal hearing before the appellate authority cannot be disputed since in the appeal grounds at para 14 it has specifically been mentioned by the appellant. From the reading of the order of the appellate authority, Annex.A/3, we find that the appellate authority has perused the appeal grounds and disposed of the appeal but personal hearing was not given to the applicant. The Hon'ble Supreme Court in AIR 1986 SC 1173, interpreting the Rule 22 (2) of the Railway Servants (Discipline and Appeal) Rules, has specifically laid down the law that giving such personal hearing is mandatory. In view of the law declared by Hon'ble the Supreme Court, when the appellate authority has not given a personal hearing to the applicant, we have no option but to quash the order of the appellate authority

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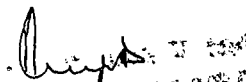
which is contrary to the principles of natural justice.

Accordingly, we pass the order as under :

"The Application is allowed and the impugned order of the appellate authority Amex. A/3, dated 1.1.1998, is set aside and the matter is remitted back to the appellate authority for reconsideration of the appeal by following the Rule 22 (2) of the Railway Servants (Discipline & Appeal), Rules. While doing so, the applicant also shall be given an opportunity of personal hearing before any order is passed by the appellate authority. Further, consequent to setting aside of order of the appellate authority, the order passed by the reviewing authority vide Amex.A/4 dated 14.5.1998, is also set aside."



4. There is no order as to costs.

  
( A.P. NAGRATH )  
Adm. Member

  
( B.S. RAIKOTE )  
Vice Chairman

...

jrm

Re/copy  
KS 1/12/01  
for Mr. McNamee

Part II and III destroyed  
in my presence on 12-3-07  
under the supervision of  
section officer ( ) as per  
order dated 12/2/07

Section Officer (Records)

R/Copy  
on 12/2/01  
P/M