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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application No. 55/2004

Date of decision: 04.09.2006

Hon'ble Mr. Kuldip Singh, Vice Chairman

Hon'ble Mr. J P Shukla, Administrative Member.

Shiv Kumar S/o Sri Amrishchandji at present working as Ferrotyper/Tracer/Junior Draftsman under AEN(Construction) NWR Jodhpur(but wrongly shown the designation as Ferro Printer by the railway.)

: Applicant.

Rep. By Mr. H R. Soni: Counsel for the applicant.

VERSUS

1. Union of India through the General Manager, North Western Railway, Jaipur.
2. The Dy. Chief Engineer (C) North Western Railway, Jodhpur.
3. The Assistant Engineer Construction, North Western Railway, Jodhpur.

: Respondents.

Rep. By Mr. Manoj Bhandari. : Counsel for the respondents.

ORDER

Mr. Kuldip Singh Vice Chairman.

The applicant in this case assailed the order dated 10.09.93 passed by the Disciplinary Authority,(Annex. A/2) whereby his Privilege Ticket Order (PTO for short) have been withheld for two years and the Appellate Authority's order dated 03.11.2003 (Annex. A/1), wherein it was stated that after careful scrutiny of available documents and facts it is established that the applicant had disobeyed the official



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instructions given by AEN/C/JU, affirming the order of the Disciplinary Authority. The applicant has also challenged the charge sheet issued to him and submitted that the charge leveled against him does not complete any misconduct on his part.

2. The respondents are contesting the O.A. by filing a detailed reply. In the reply the respondents have stated that the charge sheet for imposing a minor penalty has been issued in accordance with rules and there is no fault in it. It is also stated that the penalty order passed by the Disciplinary Authority and the order passed by the Appellate Authority are as per the rules.

3. We have heard the learned counsel for the parties and perused the records. The main grounds of challenge to the charge sheet as taken by the applicant in his O.A are as follows:

The allegations leveled against the applicant as per Annex. A/3 are that the applicant was given oral direction to perform the ferro typer job and that on his asking he was given written orders, even though he was holding the post of Ferro Printer/Tracer. In this regard he submitted a reply, which the respondents categorized as unbecoming of a railway servant. He further submitted that he has not done any act, which may



reflect, in his integrity and as he is performing the job of Ferro Printer/Tracer he had not disobeyed any orders given by his superiors. Therefore he cannot be visited with the charge sheet.

4. We have also perused the charge sheet as well as the reply to the charge sheet. The reply submitted by the applicant to the charge sheet is in a different context. The claim of the applicant is that he has been working as a Ferro Printer/Tracer which is a Group 'C' post and the authorities have asked him to perform the duties of Ferro Typer which is a Group 'D' post. Hence he was asked to perform the duties of a lower post. However, during the argument, the applicant was asked to show us as to when he was appointed to Group 'C' post of Ferro Printer/Tracer, he is unable to show us any order by which he was appointed as Ferro Printer/Tracer. On the contrary, the respondents had shown the record that the applicant was initially appointed as Khalasi and he continued to work as Khalasi/Ferro Typer Group 'D' post and he was never posted as Ferro Printer/Tracer a Group 'C' post. It is further stated that sometime he might have been asked to perform the duties of Ferro Printer/Tracer but on that score he cannot now refuse to work as Ferro Typer/Khalasi. It is also stated that the applicant had earlier filed OA No. 264/99 which was dismissed by this Bench of this Tribunal on 11.01.2001. Against that



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order the applicant preferred D B (Civil) W.P No. 807/2001 before the Hon'ble High Court of Rajasthan.

5. The Hon'ble High Court of Rajasthan after hearing the parties gave certain directions which reads as under:

" It is held that as per the circulars dated 11/15.2.1991, 13.02.97 and 09.04.97, the petitioners are entitled to be considered for regularisation of their services in Group 'C' posts. It is further made clear that any order of regularisation of the petitioner's services on lower post i.e. in Group 'D' if passed after issuance of above referred circulars by the Railway Administration, will not come in way of the petitioners for consideration of their cases for regularisation in accordance with the circulars referred above. The respondents are directed to consider the cases of each individual petitioner, on merits strictly in accordance with the circulars mentioned above, and if the petitioners are found entitled for the relief, it may be accorded to them as early as possible. No order as to costs."

The learned counsel for the respondents has pointed out that in the year 1993 as per the PNM meeting with NRMU, the services of Shri Shiv Kumar, F/Typer, Khalasi, Jodhpur (the applicant herein) is utilized as Ferro Printer Gr. 'C' on purely adhoc local temporary arrangement and he will be reverted to original grade as soon as regularisation is passed against these posts, meaning thereby that he was never posted as Ferro Printer on regular basis and therefore the applicant cannot treat himself as appointed to Group 'C' post. It is further pointed out in compliance to Hon'ble High Court's direction, the respondents issued a letter dated 30.10.2003, wherein it has been informed that the applicant's case for regularisation against 25% quota as per para (ii) of circular dated 09.04.97 was considered and it was found that many senior employees still awaiting their number against the said quota and also presently no vacancy



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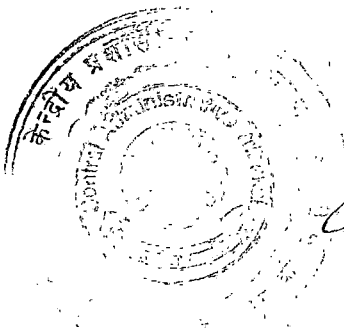
exist under the said quota, his case shall be considered as per his turn in parent department strictly in accordance with the rules and instructions on the subject. Thus the learned counsel for the respondents submitted that as the applicant continued to work as Group D employee and directions were given to him perform the duties of Group D only and he had no right to disobey the orders of the superiors and for the disobedience only the charge memo was issued for imposing minor penalty and after undergoing the procedure only minor penalty was imposed.

6. With regard to the contention of the learned counsel for the applicant that his services were always utilized as Ferro Printer Group c post and in the PNM meeting also his case was taken up and therefore if there is refusal to perform the duties of Ferro Typer there is justification, in our considered view this contention of the learned counsel for the applicant has no merits and the same deserves to be rejected since the applicant is a Group D employee only and he could not disobey the orders of his superiors to perform the duties of Group D post. Thus we do not find any fault in the charge sheet. The next contention of the learned counsel for the applicant that the Disciplinary Authority as well as the Appellate Authority have not applied their mind while passing the impugned orders and these orders are non speaking orders and therefore they are liable to be quashed. On a perusal of the order passed by the



Disciplinary Authority we find that the said order has been passed after careful consideration of the representation submitted by applicant. The Appellate Authority has also said that after going through the points mentioned in the appeal and after careful scrutiny of available documents and the facts it is established that the applicant disobeyed the official instructions given by AEN/C/JU. The Appellate Authority has further held that there is no merit in the points raised in the appeal. In our view, the orders passed by the Disciplinary Authority and the Appellate Authority cannot be termed as a non-speaking order. We have also gone through the relevant order under Railway Servants (Discipline and Appeal) Rules, 1968 for imposing minor penalties. The rules do not require that any elaborate order should be passed while imposing minor penalties since no inquiry is held in imposing minor penalty cases and as such there is no defect in the orders passed by the Disciplinary Authority as well as by the Appellate Authority.

7. In view of the foregoing discussion, we find that the O.A has no merit and the same is dismissed with no order as to costs.




(J.P. Shukla)
Administrative Member

(Kuldip Singh)
Vice Chairman.

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