

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. O.A. 954 of 1997

Present : Hon'ble Mr. D. Purkayastha, Judicial Member
Hon'ble Mr. B.P. Singh, Administrative Member

NARAYAN CHANDRA DAS

VS.

UNION OF INDIA & ORS.

For the applicant : Mr. R.K. De, counsel
Mr. S. Bhattacharya, counsel

For the respondents : Mr. B.P. Roy, counsel

Heard on : 6.6.2001

Order on : 4-07-2001

O R D E R

D. Purkayastha, J.M.

The applicant, Sri Narayan Chandra Das has filed this application being aggrieved by the order of removal from service passed against him on 29.7.96 by the disciplinary authority (Annexure A-11 to the application). The applicant was working under the respondents in the post of RGSM, Jaraikela Station, South Eastern Railway. According to the applicant, the charge memo was issued to him on 29.1.1990 (Annexure A-I to the O.A.) proposing enquiry against him under Rule 9 of the Railway Servant (Discipline & Appeal) Rules, 1968 on the basis of the imputation Annexures of the of misconduct mentioned in the/said memo. Accordingly, enquiry was held by the enquiry officer appointed by the disciplinary authority of the applicant who submitted enquiry report on 9.6.1996 holding that the charge against the applicant has been proved. Thereafter, the respondent authorities furnished the enquiry

report to the applicant by a letter dated 13.6.1996 asking him to make representation against the same within 15 days if he so desires. On receipt of the said letter and the enquiry report, the applicant made representation to the authorities denying the charges levelled against him (on 27.6.1996 (Annexure A-10). After considering the enquiry report and the representation of the applicant filed against the same, the disciplinary authority has come to the conclusion that the applicant is not fit to continue in railway service and accordingly, he passed the order of removal from service against the applicant with immediate effect (on 29.7.1996 (Annexure A-11)). The applicant made representation against the order of his removal from service to the appellate authority i.e. the respondent No. 2 in this O.A. The appellate authority rejected the prayer of the applicant affirming the order of the disciplinary authority by order dated 28.11.96 (Annexure A-12). So, the applicant has come to this Tribunal for getting appropriate relief.

2. Respondents have filed written reply denying the claim of the applicant. In the reply the respondents stated that the applicant was given full opportunity to defend his case and enquiry was conducted against him in accordance with the rules. Thereafter, the disciplinary authority passed the order of removal against him. It has further been stated that the appellate authority also considered the case of the applicant on receipt of the representation filed by him and after considering all the facts and circumstances of the matter, he affirmed the decision of the disciplinary authority. Therefore, the applicant

has been rightly removed from service and this application should be dismissed as devoid of any merit.

4. Ld. counsel, Mr. R.K. De appearing on behalf of the applicant, submits that the disciplinary authority did not accept the enquiry report of the applicant and simply forwarded the enquiry report to the applicant directing him to file representation against the same by the letter dated 13.6.1996 (Annexure A-9). He further submits that the disciplinary authority has passed the order of removal from service against the applicant without considering the explanation of the applicant. So, the applicant is seriously prejudiced for non-consideration of the explanation submitted by him. According to Mr. De, it is not mentioned in the order of removal from service of the applicant that on what points of the explanations submitted by the applicant are not found suitable for consideration. No reason has been disclosed by the respondents for rejection of the representation of the applicant regarding the enquiry report before passing of the final order of removal from service.

5. Ld. counsel for the respondents, Mr. B.P. Roy contends that no reason is required to be shown for acceptance of the enquiry report and the disciplinary authority after considering the entire facts and explanation submitted by the applicant has come to the decision that the applicant is not fit to continue the railway service. So, no irregularity or illegality has been committed by the respondents in this matter.

6. In view of the a

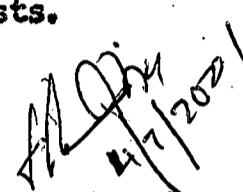
counsel for both sides, we find that the disciplinary authority forwarded the enquiry report to the applicant for making representation without criticising or appreciating the same. On a perusal of the explanation given by the applicant against the enquiry report, we find that various questions were raised, but the disciplinary authority did not consider the same and did not explain the reasons for which the explanation of the applicant was not found satisfactory. We have gone through the appellate order dated 28.11.96 (Annexure A-12) which appears to be devoid of any reason. We have also gone through the memo of appeal. We find no substantial question and facts of law has been made in that memo of appeal. However, it was the duty of the disciplinary authority and enquiring authority to appreciate the evidences and to pass a reasoned and speaking order stating as to why the explanation given by the applicant against the enquiry report and the grounds mentioned in the memo of appeal are not found satisfactory. But in this case that has not been done. So, we are satisfied that the removal order was not passed against the applicant in accordance with the rules.

7. In the aforesaid circumstances, we set aside both the order of removal from service dated 29.7.96 (Annexure A-11) and the appellate order dated 28.11.96 (Annexure A-9). We remit this matter to the disciplinary authority to consider the explanation submitted by the applicant against the enquiry report. The disciplinary authority is directed to pass a fresh

speaking order after taking into consideration all the material facts stated in the explanation against the enquiry report, in accordance with the extant rules. The applicant shall be reinstated in the service forthwith. With these observations, the O.A. is disposed of. No order is passed as to costs.

JYD

24/07/2021
MEMBER(A)


24/07/2021
MEMBER(J)