

**CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH  
LUCKNOW**

**Original Application No. 528 of 2010**

**This, the 5<sup>th</sup> day of August, 2015**

**HON'BLE MR. NAVNEET KUMAR, MEMBER(J)  
HON'BLE MS. JAYATI CHANDRA, MEMBER (A)**

Mohd Yunus Hussain aged about 58 years S/o Mohd Yusuf Hussain R/o 13 Rajeev Nagar, Sector 11, Indiaranagar, Lucknow.

**Applicant**

**By Advocate Sri A. Moin.**

**VERSUS**

1. Union of India through General Manager, Northern Railway, Baroda House New Delhi.
2. Chief Signal & Telecom Engineer, Baroda House New Delhi.
3. Addl. Divisional Railway Manager-II, Northern Railway, Hazratganj Lucknow.
4. Sri. Divisional Signal and Telecom Engineer, Northern Railway, Hazratganj Lucknow.

**Respondents**

**By Advocate Sri S. Verma**

**ORDER(ORAL)**

**HON'BLE MR. NAVNEET KUMAR, MEMBER(J)**

The present Original Application is preferred by the applicant under Section 19 of the AT Act, 1985 with the following reliefs:-

- (i) To quash the impugned order dated 9.11.2010 passed by the Respondent No. 2 as contained in Annexure A-1 to the O.A. with all consequential benefits.
- (ii) To quash the impugned order dated 21.9.2006 passed by the Respondent No. 3, as contained in Annexure A-2 to the O.A with all consequential benefits.
- (iii) To quash the impugned order dated 19<sup>th</sup> May 2006 passed by the Respondent No. 4, as contained in Annexure A-3 to the O.A. with all consequential benefits.
- (iv) To direct the respondents to pay the cost of this application.
- (v) Any other order which this Hon'ble Tribunal deems just and proper in the circumstances of the case be also passed.

2. The applicant was initially appointed in the respondents organization as Signal Inspector Grade III. While working as Section Engineer(Signals) at Faizabad, he was served with a charge sheet dated 24.10.2002. The applicant strongly rebutted the charges so levelled against him and thereafter, the inquiry was

conducted and the inquiry officer submitted the report and the inquiry report was served upon the applicant who submitted the reply and subsequently, the Disciplinary Authority passed the punishment order dated 19<sup>th</sup> May, 2006 imposing reduction in pay for a period of two years. The applicant preferred the appeal and the appeal so preferred by the applicant was also rejected by means of a non speaking order and thereafter, the applicant also preferred the revision which has also been dismissed by the Revisional Authority by means of a non speaking order. The learned counsel for the applicant also relied upon three decisions of the Hon'ble Apex Court, (i) **Naseem Bano (Smt) Vs. State of U.P. and Others reported in 1993 Supp (4) SCC 46**, (ii) **Choksi Tube Company Ltd Vs. Union of India Others reported in (1997) 11 SCC 179**, and the case of **Roop Singh Negi Vs. Punjab National Bank and Others reported in (2009) 2 SCC 570** and has indicated that the authority are bound to pass reasoned and speaking order and the Disciplinary Authority as well as Revisional orders are non speaking order, as such it requires interference by this Tribunal.

3. No reply is filed by the respondents despite sufficient opportunities granted to them.

4. Heard the learned counsel for the parties and perused the record.

5. The applicant while working with the respondents organization was charge sheeted vide charge sheet dated 24.10.2002 wherein, certain charges were levelled against the applicant. Along with charge sheet, the list of witnesses as well as list of documents were also mentioned. The applicant submitted the reply to the said charge sheet, and thereafter, the inquiry officer was appointed and who submitted his report on 24.6.2004. Copy of the inquiry report was given to the applicant who submitted the

reply and the Disciplinary Authority passed the order of punishment upon the applicant of reduction in pay for a period of two years with cumulative effect. The learned counsel for the applicant has categorically indicated that the bare reading of the aforesaid punishment order is clear to the extent that the same has been passed by the Disciplinary Authority in a very cursory manner and without application of mind. The learned counsel for the applicant submitted that as per the decision of the Hon'ble Apex court in the case of **Roop Singh Negi Vs. Punjab National Bank and Others** (Supra), the order passed by the authorities should be a speaking order. The Hon'ble Apex Court has been pleased to observe as under:-

**“Indisputably, a departmental proceeding is a quasi judicial proceeding. The Enquiry Officer performs a quasi judicial function. The charges leveled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the Investigating Officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the Enquiry Officer on the FIR which could not have been treated as evidence.”**

6. Apart from this, the appeal so submitted by the applicant is also a detailed appeal, but the Appellate Authority dismissed the appeal by means of a non speaking order.

7. Hon'ble High Court in the case of **H.S.Srivastava Vs. Special Land Acquisition Officer reported in 1993 (11) LCD 441** has observed that **“ An order adversely affecting an employee is to be speaking order.”**

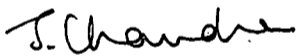
8. Soon thereafter, the applicant preferred the revision before the Revisional Authority and the Revisional so submitted by the applicant was also dismissed by the Revisional Authority by means of a non speaking order.

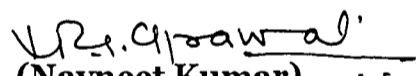
9. As observed by the Hon'ble Apex Court in the case of Naseem Bano (Smt) Vs. State of U.P. and Others (Supra), it is observed that if an averment made in writ petition are not controverted by the respondents, it should be presumed to have been admitted."

10. The bare perusal of the Disciplinary Authority, Appellate as well as the Revisional Authorities orders are clear to the extent that they are non speaking orders. It is also to be indicated that the applicant has already superannuated.

11. As observed by the Hon'ble Apex Court and also on the basis of the fact, we deem it appropriate to interfere in the present O.A. Accordingly, the impugned orders dated 19.5.2006, 21.9.2006 as well as 9.11.2010 as contained in Annexure No A-3, A-2 and A-1 i.e. order passed by the Disciplinary Authority, Appellate Authority, as well as the Revisional Authority are quashed.

12. The O.A. is allowed. No order as to costs.

  
(Ms. Jayati Chandra)  
Member (A)

  
(Navneet Kumar)  
Member (J)