

CENTRAL AND INDIA STATE TRIBUNAL
LUCKNOW BENCH
LUCKNOW.

AS

C... No.145/91

Mohd. Ahmad Khan ::::: Applicant

Vs.

Union of India & ::::: Respondents.
Others.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. V... Seth, A.M.

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was an Assistant Engineer in the Railway Administration. Because some derailment took place, departmental disciplinary proceedings started against him. Vide order dated 5/3/85 the disciplinary authority imposed penalty of reduction to a lower stage of time scale off. 650/- p.m. from 765/- p.m. in the time scale of 550-750 for a period of 5 years and postponing further increments but without affecting ^{his} seniority. The applicant filed a departmental appeal which was dismissed and thereafter he approached this Tribunal. It was found that the order passed by the appellate authority is a non-speaking order and as such the matter was sent back to the appellate authority with direction to pass a speaking order. Again a review application was filed and certain observations were made. It is thereafter ~~that~~ the application was decided.

2. Learned Counsel for the applicant contended that this time also the Appellate order is a non-speaking order and the pleas raised by the applicant have not been considered and the applicant was not given a personal hearing. Even if there was no observation in the

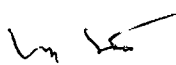
....?


P6

judgment, personal hearing should have been given to the applicant which has not been done.

3. We have looked into the appellate order and it is noticed that apart from narrating certain facts, the pleas raised by the applicant have not been taken into consideration and commented upon. When a direction has been given, for passing a speaking order, the Appellate Authority should have taken pains to decide the matter and they should have taken into consideration all the pleas raised by the applicant. It is for the appellate authority to find out as to whether there are any ^mmitigating circumstances and the punishment given is excessive or not.

4. Accordingly the respondents are again directed to pass a speaking order and all the pleas raised by the applicant should be answered and the applicant should be given a personal hearing. ~~The appellate authority should to pass a speaking order according to the above directions, and none else, as it is that to have passed the earlier appellate orders.~~ Let this be done within a period of one month from the date of communication of this order. No order as to the costs.


Member (A)


Vice-Chairman.

Dated: 23rd April, 1993, Lucknow.

(tgk)