

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

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O.A. No. 267 of 1990

Mond. Ayub Khan

Applicant

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Adm. Member.

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

At the relevant point of time the applicant was working as Deputy Chief Controller, N.E. Railway, and was issued Memo dated 17.3.1989 requiring him to furnish his representation against the neglect of duty and irresponsible working on his part as per details given in the statement of imputations, according to which the Driver of up Ludhina Coal Special power No. 16030 WEM 2 with load of 82 served with a memo addressed to Train Controller, Power Controller and Train Examiner, Control, Lucknow J. through Station Master, Gonda on 21.12.88 in connection with the poor break but the applicant as Deputy Chief Controller, Lucknow-Gonda but on the said date failed to record the aforesaid message on Control Chart for onward relay to Train Examiner Control, Lucknow.

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2. The applicant denies the charges altogether including the fact that the enquiry which was conducted without associating him, was conducted by one who was junior to him, further, neither the applicant nor the driver or the train was given opportunity to participate in the fact finding enquiry which contravenes the principles of natural justice and the representation filed by him did not find favour and he without any reason was punished by withholding increment till two years by the order dated 4.8.89. In the appeal, it appears that the personal hearing was given but the appellate authority was also not satisfied with the pleas raised by the applicant and consequently, the appeal was also dismissed.

3. Shri D.S. Chaube, learned counsel for the applicant contended that there was no proof whatsoever of any such transmission of message against the applicant and that he has been punished on imaginary ground. After preliminary enquiry was made, then the charge sheet was issued. The learned counsel for the applicant contended that without holding enquiry, the applicant could not have been held guilty and the increments could not have been stopped. It was within the domain of the disciplinary authority to punish the applicant if the disciplinary authority was satisfied with the fact finding enquiry. The learned counsel for the applicant then contended that the order is non-speaking

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Subsequently, the enquiry has also been made and if there was any short-coming, the same has been fulfilled by giving personal hearing to the applicant and he was of the view that what was done was regular and not irregular. The learned counsel for the applicant then contended that the punishment for such a thing ~~which~~ according to which, if charge is proved, was without any process and punishment imposed is excessive. That may be so, but the Tribunal has no jurisdiction to enter into the quantum of punishment and as such the punishment cannot be reduced by us. The learned counsel for the applicant/^{then} contended that the applicant proposed to file a review application. Obviously we have decided the case and our judgment will not stand in the way of filing review. But for the above observations, the application is dismissed. No order as to costs.


Anil Kumar
Mem. Member.


Vice Chairman.

Shakeel/-

Lucknow: Dated: 17.12.92.