

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHO.A.NO.: 288 OF 2006[Patna, this Wednesday, the 7th Day of May, 2008]C O R A MHON'BLE MR. SHANKAR PRASAD, MEMBER [ADMN.]
HON'BLE MS. SADHNA SRIVASTAVA, MEMBER [JUDL.]Jodhan,
S/o Late Degan.

Vs.

The Union of India through the General Manager,
East Central Railway, Hajipur, Vaishali & Ors.

Counsel for the applicant. :- Mr. Gautam Saha.

Counsel for the respondents. :- Mr. S.K.Singh, ASC.

O R D E R [ORAL]

Shankar Prasad, M[J] :- Aggrieved by the order dated 11.02.2004 of the Disciplinary Authority removing him from service and that of the Appellate Authority modifying the same to reduction to Fitter Khalasi Helper at the initial stage in pay scale of Rs.2650- 4000, with cumulative effect, and treating the intervening period as dies non, the applicant has preferred the present OA.

2. The facts lie in a narrow compass. The applicant was served with a charge sheet dated 25.07.2003 on the charges enclosed with the said charge sheet. The orders passed by the Disciplinary Authority are in two parts; namely, the order inflicting the punishment and the reasons given for the order. The relevant part of the finding reads “[1] Therefore, while not accepting the inquiry report the penalty of removal from service is imposed with immediate effect, and [2] The period of suspension shall be treated as dies non.” The forwarding letter is a cyclostyled letter and relevant part of it reads as under :-

“I have decided that you are guilty of [Name of offence
of which the employee has been guilty is to be stated

here]..... 16.4.03. तिथि 5.01.2004 तिथि एटेशन रिक्विएशन फॉर्म
प्राप्त किया गया अस्ति।..... You shall be removed from service as a disciplinary measure and the same will take effect from 14.02.2004.

[a] A copy of the report including the findings of the Inquiry Officer/Board of Inquiry has submitted for information.

[b] A copy of the statement of the findings of the disciplinary authority together with brief reasons for its disagreement, if any, with the finding of the Inquiring authority, is enclosed."

3. Rule 10[2][a] of "The Railway Servants [Discipline & Appeal] Rules, 1968", casts an obligation on the Disciplinary Authority to forward a copy of the report of the Inquiry Officer together with the tentative reasons for disagreement to the railway servant who can submit a representation to the Disciplinary Authority. The said Rule reads as under :-

"[2] The Disciplinary Authority -

[a] shall forward or cause to be forwarded a copy of the report of inquiry, if any, held by the disciplinary authority or where the disciplinary authority is not the inquiring authority, a copy of the report of the inquiring authority, its findings on further examination of witnesses, if any held under sub-rule [1][a] together with its own tentative reasons for disagreement, if any, with finding of the inquiring authority on any article of charge to the Railway servant who shall be required to submit, if he so desires, his written representation or submission to the disciplinary authority within 15 days, irrespective of whether the report is favourable to the Railway servant,"

4. It is clear that the Disciplinary Authority has not discharged his duty in accordance with the obligations cast upon by this Rule. The Appellate

Authority also has not examined as to whether proper procedure was followed or not.

5. Under such circumstances, the orders passed by the Disciplinary Authority and the Appellate Authority are quashed and set-aside. The matter is remitted back to the Disciplinary Authority to proceed from the stage of submitting a disagreement note. The Disciplinary Authority shall complete the exercise of serving the disagreement note, obtaining representation and passing the order within three months of receipt of a copy of this order.

O.A. is disposed of, accordingly, with no order as to costs.



[Sadhna Srivastava]/M[J]



Shankar Prasad
[Shankar Prasad]/M[A]

skj.