

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE TA 1036 OF 87

NAME OF THE PARTIES J. P. Tripathi Applicant

Versus

UOI of m Respondent

Part A.

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2	Order sheet	2 to 11
3	Order dt. 31.8.90	12 to 20
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CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

File B/c. Writs & out 1 destroyed

Dated.....

Counter Signed.....



Section Officer/In charge



Signature of the
Dealing Assistant

No. per 1500 copy

On

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

FORM OF INDEX

~~D.A./T.A./B.A./C.C.P./~~ No. 1036/87 19

PART - I

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5.	S.L.P.	:-	Nil	—	

8/7/14
DY. Registrar

Supervising Officer

14/12/14
Dealing Clerk

Note :- If any original document is on record - Details.

14/12/14
Dealing Clerk

V.K. Mishra

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

INDEX - SHEET

CAUSE TITLE

TA-1036/87 CRP-1362/82

OF 198

Name of the Parties

J P. Trepathi

Versus

Union of Indira.

Part A, B and C

A file

Sl. No.	DESCRIPTION OF DOCUMENTS	PAGE
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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No.

1363

of 1983.

Jagdish Chandra Tripathi vs. Union of India & Ors.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
24-3-82	Munk S. V. J. Kunss Ah mad, J	
	Admit, issue notice.	
	Sd K.S. V. Sd S.S. Ah mad 24-3-82	
	6-5-1982. Fixed w. P. with for attendance.	
	Issue Notice to op 1 to 4 through R.P.	
	S. C. 1982	
10-3-83	Service Report - of 1. Power filed by Sn C A. Bannic, Actua of 2 loc. Power filed by Sn Siddharth verma, May date proceed?	
	12/3/83	10/3/83

FINAL

.....T.A. NO. 1036.....OF 1987
T. R. Inpagan.....VS. H. L. J. Jellison.....

Date	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order
	<p><u>OK</u></p> <p>This writ Petition No. 1362/02 has been removed on Transfer from Judge's Court to District Bench District</p> <p>The Petition of the case and is under.</p> <p>1- The writ petition is withdrawn 2- Court's order regarding affidavits have not been filed yet.</p> <p>In this case, orders to the parties have been issued by Judge's Court, dated 9/5/02. Whether the writ petition is withdrawn Court has been requested back after Dr. A. N. Sankar, District Officer, on behalf of the applicant through his authorized submission.</p> <p><u>OK</u> 4/5/02</p>	<p>95000000</p> <p>Dr. A. N. Sankar, District Officer, has appeared for the writ petition.</p>

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ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD

(4)

TA. NO. 1036/07 DF 100
J. P. Toulpathi vs. Union of India & ors.

No. of Cases	Date of Order	ORDER WITH SIGNATURE	Office Notice as to action (if any) taken on order
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2 13-6-88

Office Report

An application has been filed in this Tribunal for transferring the case No. 1036/07 of _____ to the Bench, Lucknow. It was approved on 11-7-88 and listed for hearing at Circuit Bench, Lucknow. In this regard the notices may be sent to the parties concerned.

JGS

3 10-7-88

13/6
Hon. Ajay Kumar, Am.

On the request of the applicant dated 15-4-88 this case was transferred to the Circuit Bench at Lucknow and notices were sent to the applicant and to the applicant's counsel at Allahabad on 3-6-88 fixing the case at Lucknow for today. No body is present either on behalf of the applicant or for the respondents. Fresh notices be issued to both the parties. The respondents should file reply to the petition within one month. Replies can be filed within fifteen days thereafter. After exchange of both the replies the case be listed for final hearing on 23-9-88.

Notice issued to both the parties.
JGS

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17.100

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCULAR BENCH AT LACHO.

O.A./T.A. No. 1036 1987

J. P. Tripathi

Applicant(s)

Versus

U O L

Respondent(s)

Sr.No.	Date	Orders
(6)	27.10.88	<p>Hon. J. S. Mishra, Am Hon. G. S. Sharma, Jm</p> <p>Reply on behalf of the respondents has been filed today. In the request of learned Counsel for the applicant, he is allowed 3 weeks time to file rejoinder. List this case for hearing on 24.11.1988.</p> <p>Jm</p> <p>27.10.88 copy</p> <p>Am</p>
	18.11.88	<p>OB</p> <p>No rejoinder affidavit has been filed by the counsel for the applicant as directed by the court's order dt. 27.10.88.</p> <p>Submitted.</p>
(7)	24-11-88	<p>Hon. J. S. Mishra, Am. Hon. G. S. Sharma, Jm.</p> <p>Sri. Harinder Abas for applicant Sri. S. Verma for respondents</p> <p>Counter & rejoinder have been filed. Arguments heard. Judgement reserved.</p> <p>Jm</p> <p>Am.</p> <p>Amish 10/11</p>

Hon' Mr. Justice K. Nath, V.C.

Hon' Mr. K.J. Raman, A.M.

28/6/89

Appearance has not been made on behalf of any of the parties, Although it seems to have been heard on 24/11/88 and now it has been directed for a fresh argument. The office at Allahabad seems to have issued notice to Lawyers on 5-6-89, but, it is not clear, whether the Lawyers have been served the notice or not. But, what is more important is that Shri Haider Abas, the learned counsel for the applicant has been elevated to be a Judge of the High Court. The office will re-examine the record ^{of} the case first, and find out the names of Lawyers for the parties, and issue notices afresh to those Lawyers fixing the date on 8-8-89 for hearing.

Notice be also issued to the applicant by name indicating that if his Lawyer was Shri Haider Abas, now elevated as Judge of High Court, ^{he} may engage some other Lawyer for the case.

A.M.

V.C.

(sns)

Hon' Mr. D.K. Agrawal, J.M.

8/8/89

Shri L.P. Shukla, Learned counsel for the applicant requests that this case be listed on 21/8/89. Allowed. Let this case be listed on 21/8/89 for hearing.

(sns)

21.0.09

No Selling. Adj. to 22.11.09.
Applicant is present & learned Counsel for the reply. is also present.

No Selling Adj to 1.2.90.

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23/11/09

23-11-89
22-11-89 was
holiday for election

h
Submitted for
hearing

notice given
Shy

OR
Date noted by
applicant & response
Counsel
Submitted for
release

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Submitted
for hearing

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20-3-90

F.A. 1036/87

Hon D.K. Agrawal Jm.
Hon K. Sanyal, AM

(10)

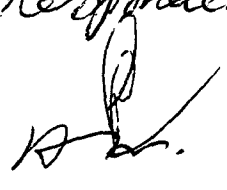
(A)

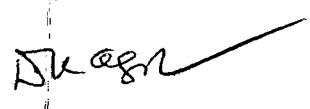
Mr. L.P. Shukla for Applicant.
Mr. Siddharth Verma for respondents.

Arguments heard. Respondents have not complied with the order dated 26-2-90, in as much as they have not produced the relevant documents. If they do not produce the same, adverse inference would be ^{drawn} ~~passed~~ against them. They are, however, at liberty to produce the said documents within 3 weeks. Judgment reserved. List it on 16-4-90 for receiving the documents, if any. Copy of this order shall be given to the learned counsel for the respondents, as desired.

Received copy of Judgment
C.J.P. Tribunal
3/4/90

B


D.K. Agrawal


Jm.

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) : LUCKNOW :

WRIT PETITION NO. 1362 OF 1982

Jagdamba Prasad Tripathi, aged about 29 years,
S/o Late Sri S.P. Tripathi, resident of 253/110,
Saryu Niwas, Nadan Mahal Road, Lucknow.

--- PETITIONER.

VERSUS

1. Union of India through the General Manager,
Northern Railway, ~~Baroda~~ Baroda House,
New Delhi.
2. Senior Divisional Operating Superintendent,
Northern Railway, Hazratganj, Lucknow.
3. Additional Divisional Railway Manager, (O)
Northern Railway, Hazratganj, Lucknow.
4. Divisional Railway Manager, Northern Railway,
Hazratganj, Lucknow.

--- OPPOSITE PARTIES.

WRIT PETITION UNDER ARTICLE 226 OF CONSTITUTION OF INDIA

The above named petitioner most respectfully
begs to submit as under:-

1. That the present writ petition is directed
against the order dated 20.6.1981 passed by the Opposite
Party No. 2 dismissing the petitioner from service,
exercising the powers conferred under Rule 14(11) of
the Railway Servants (Discipline & Appeal) Rules 1968,
order dated 7.11.1981 passed by the Opposite Party No.3
rejecting petitioner's appeal dated 11.8.81 and the
order dated 22.12.81 passed by opposite party No.4
rejecting petitioner's review petition dated 17.11.1981.
A true copy of the impugned orders dated 20.6.81,

J.P. Tripathi

(12)

A/10

1036/87(T)
1362/82

J. P. Tripathi

Sr. L. P. SHUKLA

Union of India

Sr. S. Varni

Chairman:

The Hon'ble Mr. D. K. Agrawal, J.M.

The Hon'ble Mr. K. Rayappa AM

1. Whether members of local panchayat allowed to sit in the Tribunal?
2. Whether to send to the Tribunal or not?
3. Whether their Tribunal will be the fair copy of the Tribunal?
4. Whether to be circulated to all members?

new/

LP

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

(A/11)
(13)

T.A. 1036/87
(W.P. No. 1362/82)

J.P. Tripathi

...Applicant.

versus

Union of India & Ors.

...Respondents.

Hon. Mr. D.K.Agrawal, Judl. Member.

Hon. Mr. K. Obayya, Adm. Member.

(Hon.Mr. K. Obayya, A.M.)

Writ Petition 1362/82 filed in the High Court of Judicature at Allahabad, Lucknow Bench has been received in this Tribunal on transfer under section 29 of the Administrative Tribunals Act, 1985 and it was registered as T.A.1036/87. In this petition, the petitioner seeks a direction for quashing the order of his dismissal from service dated 29.6.81, the appellate order dated 7.11.81 and the review order dated 22.12.1981.

2. The petitioner was employed in Northern Railway as a Trains Clerk in 1977 and was working in the control room in DRM's office, Lucknow. By order dated 29.6.81 he was dismissed from service for alleged involvement in the assault of public servants Mohd. Husnain and S.C. Bajpai on 24.6.81. The dismissal order is accompanied by statement of charges and also the order indicating the circumstances under which it was not possible to provide any opportunity to the petitioner to defend his case before passing the impugned order. The contention of the petitioner is that he came to know of the incident of 24.6.81 in which the aforesaid public servants were assaulted, later, and that

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the allegation that he is involved was false. His name is not mentioned in the F.I.R., though he is well known to the victim public servant. It is also contended by him that under Rule 14 of the Discipline & Appeal Rules, the disciplinary authority should be satisfied as to the circumstances necessitating dispensing with the enquiry, ^{this satisfied} / should be based on objective assessment and cogent reliable material. ~~xxx based on cogent and reliable material~~. It was practicable to hold an enquiry in this case. Notice before imposing the penalty which is mandatory, requirement under rule 14 was not issued to him. The disciplinary authority has not taken into consideration the totality of circumstances ⁱⁿ / ascertaining the truth. Therefore, the punishment is arbitrary. He preferred an appeal which was rejected. The pleas urged by him in the appeal to consider the grounds for not holding the enquiry ~~were~~ not looked into and that the appellate order is cryptic, non-speaking and as such it is liable to be quashed. The review order also suffers from the same infirmity, as such cannot be sustained.

3. In the counter filed by the respondents, it is stated that the enquiry was held properly and formalities were fulfilled and action was taken against the petitioner after disciplinary ^{authority} ~~enquiry~~ was fully satisfied with the enquiries and revelation of confidential enquiry. It was neither possible, nor in the interest of administration to hold any enquiry as ~~is~~ stipulated in the rules. It is further contended by them that the appeal as well as the review was considered ^{and orders passed} / ~~and~~ after due consideration. The confidential enquiry held by the disciplinary authority

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established that ^{the}petitioner was actually involved in the assault.

4. In the rejoinder, the petitioner stated that ⁱⁿthe civil suit filed by one Naeem who ^{was} also dismissed for involvement in the same incident, ^{the} victim officials were examined and they have testified ^{to} the fact that nobody from the department was present at the time of incident, and they have not seen the petitioner at incident.

5. We have heard the learned counsel for the parties. The learned counsel for the petitioner assailed the impugned order as arbitrary and violative of Article 311 of the Constitution; there was no evidence to connect the petitioner overtly or covertly with the alleged incident of assault on the public servant. No reasons were given as to why the enquiry was not practicable and the appellate order disclosed that there was ^{no} application of mind of the "appellate authority" and the reviewing authority has passed a cryptic order. He contended that dismissal from service under rule 14 of the Railway Servants (Discipline & Appeal) Rules, 1968 is a draconian measure and should not be lightly applied in routine way. The learned counsel for the respondents reiterated the stand taken in the counter.

6. We have given our careful consideration to the rival contentions and perused the record placed before us by the learned counsel for the respondents. We have also noted that rules 9 to 13 of Railway Servants (Discipline & Appeal) Rules, 1968 lay down the procedure for imposing of penalties. In case of major penalties, the procedure is elaborate while in case of minor penalties it is not

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so elaborate. But what is common in this procedure is that opportunity is afforded to the charged officer to explain his case, cross-examine witnesses, examine his own witnesses seek copies of documents relied upon. An enquiry, if it does ~~is~~ not conform to these rules, is void. Exception to these rules, however, is provided in rule 14 which lays down a procedure in certain cases. According to rule 14 (ii): "where a disciplinary authority is satisfied with reasons to be recorded by it in writing, that it is not reasonably practicable to hold enquiry in the manner provided in these rules.....disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit."

7. The application of the rule 14(ii) has been the subject matter of many judicial pronouncements. It is well settled that disciplinary authority must act fairly and reasonably and not arbitrarily and that there should be ~~no~~ material to suggest that the enquiry in a manner laid down under rules 9 to 13 is not practicable and that there is material to suggest imposition of penalty without holding the enquiry. Reasons should be recorded as to the circumstances necessitating doing away with the enquiry. In *Tulsiram Patel and others vs. Union of India* (1985 (22) SLR 576) the Hon. Supreme Court held that "reasonable practicability of holding enquiry is a matter of assessment to be made by the disciplinary authority; such authority is generally on the spot and knows what is happening." It was also held that the order of disciplinary authority dispensing with the enquiry and order of punishment are subject to judicial review. Reiterating the principles laid

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down in the case of Tulsi Ram Patel supra, the Hon. Supreme Court in Satyavir Singh vs. Union of India (1986(1) SLR, page 255) observed that "in re-examining the relevancy of the reasons given for dispensing with the enquiry, the court will consider the circumstances which, according to the disciplinary authority made it come to the conclusion that it was not reasonably practicable to hold the enquiry. If the court finds that the reasons are irrelevant, the order dispensing with the enquiry and the order of penalty following upon it would be void and the court will strike them out. It was further observed that "in considering the relevancy of the reasons given by the disciplinary authority, the court will not, however, sit in the judgment over the reasons like the court of appeal nor decide whether or not the reasons are germane to clause (b) of the 2nd proviso are analogous service rules. The court must put itself in place of disciplinary authority and consider what is in the then prevailing situation, a reasonable man acting in a reasonable manner would be done. It will judge the matter in the light of the then prevailing situation and not as if the disciplinary authority was deciding the question whether the enquiry should be dispensed with or not in the cool and detached atmosphere of court room removed in time from the situation in question. Where two views are possible, the court will decline to interfere".

8. The charge against the petitioner was that he planned to beat up Shri Hasnain and Shri Bajpai, Deputy

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(18) (10)

Chief Controllers, Northern Railway and on 24.6.81, masterminded the incident in which both these officers were beaten up resulting in causing grievous injuries to these officers. The charge alongwith punishment notice and also order containing reasons for dispensing with the enquiry were all served on the applicant on the same day, i.e. 29.6.81. We have carefully looked into ~~these~~ ^{the victim} these documents. Immediately after the incident ^{the victim} officers gave their reports in the office of the D.R.M. In / reports there is no mention that the petitioner was responsible for organizing the assault. Also the F.I.R. was lodged in the police station. In the F.I.R. also no mention is made of the involvement of the petitioner. The police case, however, was not proceeded with and the petitioner was not arrested. The department has filed before us the record relating to the disciplinary proceedings. This record commences with page No. 8 and deals with appeal and the review. The record relating to the disciplinary proceedings in which the punishment was awarded, has not been made available and the respondents have not been able to show us any other paper where the disciplinary authority has recorded the reasons as to why ~~he~~ ^{ed} consider that open enquiry against the petitioner for alleged offence of assault on public servant, was not reasonably practicable. This being a mandatory provision of the rule, the orders passed in a summary manner without an enquiry strikes at the very root of the mandatory provisions and on this ground alone the enquiry without affording opportunity to the petitioner and also the order of dismissal that followed it, are liable to be quashed. The learned counsel for the respondents stated that the disciplinary authority held a confidential

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enquiry and that enquiry has disclosed the complicity of the petitioner in the alleged incident. We have not been shown any such confidential enquiry. It has to be presumed that the disciplinary authority has not complied with the provisions of rule 14(ii) and as such the impugned orders cannot be sustained. It is also seen that the petitioner has preferred an appeal in which he has urged certain specific grounds pointing out certain lapses on the part of disciplinary authority and the enquiry held by the disciplinary authority. The appellate ^{authority} ~~order~~ has not considered these grounds at all and passed the order in a routine manner holding that he has no reason to doubt the correct application of mind by the disciplinary authority. The review order also is one para order which said that there was no justification to change the orders of the appellate authority. The appellate order should be in conformity with the provisions of rule 20(ii) in as much as the orders were passed in a perfunctory manner without considering all the specific grounds urged by the petitioner particularly in the context of ^{here} ~~their~~ being no enquiry and opportunity given to the petitioner to explain his case before the disciplinary authority. We are of the view that the order of the appellate authority suffers from serious flaws. The order of the appellate authority should be based on considering the evidence on record and also particularly sufficiency of the reasons recorded by the disciplinary authority for dispensing with the enquiry. This being not the case, the appellate order is liable to be set aside. The reviewing authority ^{in his} ~~is~~ very cryptic in one para order and has not considered any of the aspects

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Adm. Member.

Lucknow Dated August, 3/ 90.

Lucknow Dated August, 3/ 90.