

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, "GULESTAN" BUILDING NO.6
BOMBAY - 400 001

O.A.No. 450/89

Prabhakar C. Deshpande
Resident of Gevrai Railway Station
District Aurangabad,
working as Assistant Station Master
at Gevrai, Dist. Aurangabad .. Applicant

V/s.

1. Union of India through
General Manager
South Central Railway
Rail Nilayam
Secunderabad
Andhra pradesh

2. Divisional Railway Manager
M.G. Division
Secunderabad, A.P.

.. Respondents

CORAM: HON.SHRI JUSTICE U C SRIVASTAVA, V.C.
HON. SHRI P S CHAUDHURI, MEMBER (A)

APPEARANCE

Shri E K Thomas
Advocate
for the applicant

Shri V G Rego
Counsel
for the respondents

ORAL JUDGMENT:
(PER : P S CHAUDHURI, MEMBER(A))

DATED: 30-8-1991

In this application under section 19
of the Administrative Tribunals Act, 1985 filed
on 22.6.1989 the applicant is challenging the
order dated 12.8.88 by which the penalty of rever-
sion to the next lower grade for three years with
loss of seniority has ultimately been imposed on
him.

2. By order dated 3.9.1986 (wrongly mentioned
as 13.9.86, by the applicant) the penalty of reduction
to a lower grade for a period of three years was
imposed on him. Admittedly the finding of guilt and
the imposition of the penalty was done without
giving him an opportunity of representing against
the inquiry officer's report, a copy of which was

(8)

sent to him for the first time with the notice of order of penalty. By order dated 10.6.87 notice regarding enhancement of penalty was served on the applicant. By order dated 23.7.87 the penalty of reduction to a lower grade was enhanced to removal from service. By order dated 12.12.1987 the applicant's appeal against this penalty was rejected. Ultimately by order dated 12.8.88 the said penalty of removal was once again brought back to original penalty of reduction to a lower grade for a period of three years. The respondents have opposed the application by filing their written statement.

3. We have heard Mr. E K Thomas, learned counsel for the applicant and Mr. V G Ruge, learned counsel for the respondents.

4. From the ~~part~~ation of facts it is quite evident that the initial penalty imposed suffers from the fatal flaw of denial of natural justice inasmuch as the applicant was not given an opportunity of making a representation against the inquiry officer's report - see Union of India & Ors. V. Md. Ramzan Khan AIR 1991, SC 471. This fatal flaw should also have been noticed by the appellate and reviewing authorities. In this view of the matter we have no difficulty in holding that the application deserves to be allowed.

5. We accordingly quash and set aside the order in review dated 12.8.1988 and all the earlier orders ~~in~~ which have merged in this order. In view of the fact that the order dated 12.8.88 has been quashed and set aside the subsequent orders dated 2.3.89 which is passed on the said order dated 12.8.1988 is also quashed and set aside. The respondents are at liberty, if they so desire, to proceed with the matter afresh from the stage

11

of supply of a copy of the inquiry report, which is now in the applicant's possession and after giving him an opportunity of making such representation as he wishes against it. In the circumstances of the case, there would be no order as to costs.



(P S CHAUDHURI)
MEMBER(A)



(U C SRIVASTAVA)
VICE CHAIRMAN