

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.**

O.A. No. 455 of 2005

Date of order : 24.2.11.

C O R A M

Hon'ble Mrs. Justice Rekha Kumari, Member [Judicial]
Hon'ble Mr. A.K. Jain, Member [Administrative]

Satyendra Kumar Verma, S/o Late S.N. Prasad, Driver Grade 'A', E.C. Railway, Danapur Division under Sr. Section Engineer Loco , Danapur, P.O. Khagaul, District – Patna.

.... Applicant

By Advocate : Shri M.P. Dixit

Vs.

1. The Union of India, through the General Manager, E.C. Railway, Hajipur.
2. The Chief Mechanical Engineer, E.C. Railway, Hajipur.
3. The Divisional Railway Manager, E.C. Railway, Danapur.
4. The Senior Divisional Personnel Officer, E.C. Railway, Danapur.
5. The Senior Divisional Mechanical Engineer [P], E.C. Railway, Danapur.
6. The Senior Section Engineer, Loco, E.C. Railway, Danapur.

.... Respondents.

By Advocate : Shri N. Kumar.

ORDER

Justice Rekha Kumari, Member [J] :- The applicant has filed this OA for setting aside the order dated 17.09.2002 [Annexure A/13] passed by the Senior Divisional Mechanical Engineer, Eastern Railway, Danapur, whereby he has been found guilty and imposed the punishment of one stage lower in same time scale from Rs. 6200 to Rs. 6025/- for four years [NC], in a disciplinary proceedings. He has also prayed for quashing the order dated 03.07.2003 [Annexure A/16] passed in appeal whereunder the punishment has been upheld, and also the order dated 27.04.2005 [Annexure A/18] whereunder the revision petition has been dismissed being time barred.

2. It appears that there was derailment of 518 Down train on 12.02.2002 at Turiganj station. The applicant was driver of the train. A fact finding inquiry was held in which among other staff, the applicant as driver was held responsible for the derailment. The allegation against him is that he started the train which was detained for giving preference to 4840 Down train, without seeing the setting of the open track point.

3. A disciplinary proceeding was started against him for violating G.R3.78 [i] [b] SR 3.80 [b] and GR 4.40 and also 3.1 [i] [ii] [iii] of Railway Service Conduct Rules. The inquiry officer, after the inquiry, found the applicant guilty. The disciplinary authority, after going through the inquiry report and the case file also found the applicant guilty for violating Rule 3.1 [i] [ii] [iii] of the above Rules and imposed the above punishment.

4. He preferred appeal against the order of disciplinary authority [Annexure A/14], giving reasons for his innocence. The appellate authority i.e., ADRM [I] upheld the order of disciplinary authority. The order was conveyed to the applicant vide letter dated 3.7.2003 [Annexure A/16] of the Assistant Personnel Officer [1] , Danapur. The applicant filed revision against the order of the appellate authority. But the revision has been rejected being time barred by order dated 17.03.2005 of the Chief Operating Manager vide Annexure A/18.

5. The case of the applicant is that without properly appreciating the issue involved, and defence note, the inquiry officer passed his order. The Disciplinary Authority, without considering his representation [Annexure A/12] , passed its order. The impugned orders passed the Disciplinary Authority and the appellate authority are also cryptic, and the orders were passed without application of mind, and the revisional order has also been passed without going into the merit of the case.

6. The respondents have filed written statement opposing the prayer of the applicant. In their written statement, they have supported the impugned orders.

7. The learned counsel for both the parties were heard.

8. It appears from the revisional order [Annexure A/18] that the applicant had filed the petition for revision on 08.08.2004 when the appellate order was conveyed on 03.07.2003. The revision, thus, was time barred as the time limit is 45 days. So, there appears no merit in the order passed in revision.

9. As regards the appellate order, it is well settled that the appellate authority in a disciplinary proceedings acts in a quasi-judicial capacity, and the order passed by it has to be reasoned one, showing application of mind to the

questions raised by the applicant. If that is not done, the appellate order is vitiated.

10. In the case of DFO, Kothagudum vs. Madhusudan Rao [2008] 1 SCC [L&S] 788, the Hon'ble Supreme Court has held - "*it is no doubt also true that the appellate or revisional authority is not required to give detailed reason for agreeing or confirming an order passed by the lower forum, but in our view, in the interest of justice, the delinquent officer is entitled to know at least the mind of appellate or revisional authority in dismissing his appeal and / or revision. It is true that no detailed reasons are required to be given, but the some brief reason should be indicated even in the order confirming the view of the lower forum*".

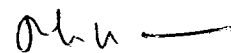
11. In this case, from Annexure A/16 it appears that the appellate authority in its order has simply stated as follows:- "*Having considered the facts and circumstances of the case, I find that the order given by the D.A is objective, impartial and fair.*"

12. The appellate authority, therefore, has not given any reason showing application of mind. Accordingly, the order passed by the appellate authority is liable to be set aside, and is hereby set aside. The appellate authority, however, is directed to pass a fresh order considering the points raised by the applicant in his memo of appeal [Annexure A/14]. The order must be passed within three month of the receipt / production of copy of this order.

13. The OA is allowed with the direction as made above. No order as to costs.



[A.K. Jain] M [A]



[Rekha Kumari] M [J]

/cbs/