

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 878 of 1999.

Dated this Monday, the 13th day of January, 2003.

Mr. V.P.S. Chopra, Applicant.

Shri G. S. Walia, Advocate for Applicant.

VERSUS

Union of India & Others, Respondents.

Shri R. R. Shetty, Advocate for Respondents.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

Hon'ble Shri S. L. Jain, Member (J).

- (i) To be referred to the Reporter or not ? *yes*
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ? *no*
- (iii) Library. *yes*

*S. L. Jain*  
(S. L. JAIN)  
MEMBER (J)

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V.P.S. Chopra,  
Ticket Collector,  
Western Railway,  
Mumbai Division,  
Mumbai.

Residing at -  
D-101, Patel Apartments,  
1st floor, Off Sea-Rock  
Building, Taki Road,  
Tulinj, Nallasopara (E),  
Thane Dist. 401 203.

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Applicant.

(By Advocate Shri G. S. Walia)

VERSUS

1. Union of India through  
The General Manager,  
Western Railway,  
Headquarters Office,  
Churchgate,  
Mumbai - 400 020.
2. Divisional Railway Manager,  
Bombay Division,  
Western Railway,  
Mumbai Central,  
Mumbai - 400 008.
3. Sr. Divisional Commercial  
Manager (CTG),  
Bombay Division,  
Western Railway,  
Mumbai Central,  
Mumbai.

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Respondents.

(By Advocate Shri R. R. Shetty)

O R D E R (ORAL)

PER : Shri S. L. Jain, Member (J).

The Applicant impugns order dated 20.02.1997, 01.01.1998  
and 17.03.1998 by which the Applicant has been penalised by the

*S.L. Jain*

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Disciplinary Authority, Appellate Authority and Revisional Authority respectively.

2. The brief facts leading to this O.A. are that the Applicant was served with a copy of the Enquiry Officer's Report exonerating him. The Disciplinary Authority passed the punishment order, thereafter the Appellate Authority served a notice of enhancement of penalty. The Applicant replied to the same and the Appellate Authority enhanced the penalty. The Applicant filed the revision petition which is rejected.

3. In para 4.4 the Applicant has pleaded that the Disciplinary Authority imposed penalty without notice to the Applicant that he wanted to disagree with the Enquiry Officer's report. Reply to the same is contained in para 5 of the Written Statement wherein it is alleged that the Applicant was given indication by the Respondent about the desire to disagree with the findings of the Enquiry Officer. After getting the applicant's comments on the enquiry officer's report the Disciplinary Authority went ahead and imposed a minor penalty upon the Applicant vide order dated 20.02.1997.

4. We have perused the letter which accompanied the Enquiry Officer's report and it is being extracted below :

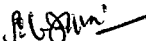
"The report of the Enquiry Officer is enclosed. The Disciplinary Authority will take suitable decision after considering the report. If you wish to make any representation of submission you may do so in writing to the Disciplinary Authority within 13 days of receipt of this letter."

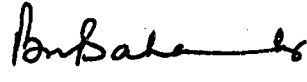
A perusal of the same makes it clear that the Disciplinary Authority nowhere mentions that he intends to disagree with the

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Enquiry Officer's report. In view of the said fact, the order passed by the Disciplinary Authority does not survive and every further step taken by Appellate Authority as well as Revisional Authority will also not survive [1998 SCC (L&S) 1783... Punjab National Bank & Others V/s. Kunj Behari Misra alongwith other Civil Appeal No. 7433 of 1995).

5. In the result, the O.A. is allowed. The order passed by the Revisional Authority, Appellate Authority and Disciplinary Authority dated 17.03.1998, 01.01.1998 and 20.02.1997 respectively are quashed and set aside. The Respondents are at liberty to proceed with the matter in accordance with law. If respondents proceed to take further steps in the matter, the enquiry be completed within a period of three months at Disciplinary Authority's stage. No order as to costs.

  
(S.L. JAIN)  
MEMBER (J).

  
(B. N. BAHADUR)  
MEMBER (A).

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