

(C)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR

O.A.756/90

Mahadeo Ganpat Kadam,
Quarter No.H-19-F,
Wardha
T.and D.Wardha
Maharashtra.

.. Applicant

vs.

1. The Chief Operating Superintendent,
Central Railway,
Bombay V.T.
2. The Divisional Railway Manager,
Central Railway,
Nagpur.
3. The Sr.Divisional Mechanical
Engineer,
D.R.M's office,
Mechanical Power Branch,
Nagpur.
4. Assistant Mechanical Engineer(Power),
Central Railway,
Nagpur.
5. Shri V.K.Iyer,
Enquiry Officer,
L.I.Enquiry,
Central Railway,
Nagpur.

.. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava
Vice-Chairman

Hon'ble Shri P.S.Chaudhuri
Member(A)

Appearances:

1. Mr.Modak
Advocate for the
Applicant.
2. Ms.Indira Bodade,
Advocate for the
Respondents.

ORAL JUDGMENT:
[Per U.C.Srivastava,Vice-Chairman]

Date: 9-7-1991

As a very short question is involved
in this case the application is being admitted and
disposed of finally after hearing the counsel for
both the parties.

2. Under particular charge of omission
and commission the applicant who was a Shunter was
chargesheeted. The Disciplinary Authority after

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holding the enquiry, which according to the applicant was not an enquiry in the eyes of law, passed an order removing him from service. Against the said the applicant filed an appeal pointing out certain procedural lapses in the same ~~including~~ that he was not allowed to file written statement and certain other things. The appellate authority passed the following order:

"The punishment of Removal from service imposed upon you by AME(P) vide this office letter No.M/DAR/L/634/5 dt. 26.5.89 is hereby set aside. The case is to be treated as DENOVO from the issue of imposition of penalty due to procedural lapses.

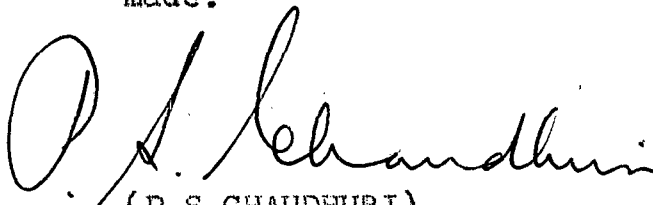
Further orders will follow."


3. Taking it to ~~be~~^a remark for the purposes of awarding punishment the Disciplinary Authority vide order dated 11.8.1989 maintained the said order holding that the charge against the applicant which ~~one~~^{is} referred to in the order was fully proved. Against the said order the applicant again filed an appeal and the appeal was dismissed holding that the finding against him was correctly arrived at. Neither the Disciplinary Authority nor the Appellate Authority second time applied their mind as to the grievance of the applicant regarding procedural lapses i.e. a reasonable opportunity to defend himself regarding certain instances which were pointed out by him. The earlier order passed by the Appellate Authority undoubtedly is not happily worded. What he wanted to say by using DENOVO and procedural lapses ^{was that} he meant to say that let a fresh enquiry be take place. But the meaning of the same was not correctly understood may be because the same was not happily worded.

The Disciplinary Authority ^{and} thereafter the Appellate Authority also did not apply^k their mind. With this observation after this order a duty was cast upon ~~with~~ the Disciplinary Authority to hold DENOVO enquiry giving opportunity of being heard to the applicant regarding the complaints which was made by him and accordingly this application deserves to be allowed.

4. The order of *penalty and the appellate order* ~~thereon~~ ^{is} quashed and set aside^u and the Disciplinary Authority is directed to hold fresh enquiry in the matter giving opportunity to the applicant particularly to the ground which was taken by him. Let the enquiry be effected within three months from the date of receipt of a copy of this order and the applicant shall fully cooperate with the enquiry.

5. The applicant is occupying the Govt. accommodation and the enquiry is to proceed as such the apprehension of the applicant that he will be evicted from the premises without conclusion of the enquiry or final punishment does not appear^{well} to be ~~un~~founded. Consequently no observation in this behalf is made.


(P.S. CHAUDHURI)
Member (A)


(U.C. SRIVASTAVA)
Vice-Chairman