CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 358/98, 365/98 and 1044/98.

Dated this Wednesday, the 26th day of June, 2002.

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

Hon'ble Shri Shankar Raju, Member (J).

Shri Gopal S.,
Residing at - RB/II/94/6 Kurla,
Near Railway Hospital,
Kurla (East), Mumbai. ... Applicant in O.A.No. 358/98.

Shri Govind Rajaram Khutad,
Arjun Page Chawl,
Jai Bhavani Marg,
Amboli, Andheri (W),
Mumbai - 400 058. ... Applicant in O.A.No. 365/98.

Shri B. K. Solanki,
Ex. R.P.C.
Residing at -2/9, Ambika Nagar,
Khalai Village, Vidhya Vihar (W),
Mumbai - 400 080. ... Applicant in O.A.No. 1044/98.

VERSUS

1. Union of India through
the General Manager,
Central Railway, C.S.T.,
Mumbai - 400 001.

2. The Chief Commercial Manager,
Central Railway, C.S.T.,
Mumbai - 400 001.

3. The Additional Rly. Manager,
Central Railway, C.S.T.,
Mumbai - 400 001.

4. The Sr. Divl. Commercial Manager,
Central Railway, C.S.T.,
Mumbai - 400 001.

5. The Area Manager,
Central Railway, Wadi Bunder,
Mumbai - 400 010. ... Respondents in all the 3 O.As.

(By Advocate Shri V. S. Masurkar and
Shri V. D. Vadhavkar)

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O R D E R (ORAL)

PER : Shri Shankar Raju, Member (J)

As the issues involved in all these three O.As. are identical and founded on the same facts and question of law, all the O.As. are, therefore, being disposed of by this common order.

2. The Applicants in these O.As. are Receipt Preparing Clerks (RPC for short) and have been proceeded against in separate proceedings by issuance of charge-sheets which ultimately culminated in the findings, holding them guilty of the charge. The Disciplinary Authority imposed the punishment of removal from service upon them.

3. The Applicants have filed a statutory appeal against the said order of Removal from Service, which was disposed of in all the three O.As. by an order dated 15.12.1997.

4. The Learned Counsel for the Applicant has, although taken several contentions to assail the impugned order, at the outset stated that the Appellate order passed by the Respondents is not in confirmity with Rule 22(2) of the Railway Servants (Discipline & Appeal) Rules, 1968, inasmuch as it does not contain any reason and shows no application of mind by referring to the decision of the Apex Court in Ram Chander V/s. Union of India & others [1986 (2) SC AISLJ 249]. It is contended that while disposing of the appeal under Rule 22 (2) of the Railway Servants (D & A) Rules, it is incumbent upon the Appellate Authority not only to give personal hearing to the delinquent, if

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specifically asked for, but also to pass a reasoned order. It is also stated that the quantum of punishment is to gone into, which is within the exclusive domain and prerogative, has also not been gone into by the Appellate Authority in all these cases.

5. Learned Counsel, Shri V. S. Masurkar as well as Shri V. D. Vadhavkar, for the Respondents, stated that although the reasons have not been recorded in the order but in the notings on file the same have been recorded, which is a valid compliance of the rules.

6. We have carefully considered the rival contentions of the parties and perused the materials on record. In our considered view, the decision in Ram Chandra (supra) as well as the orders issued by the Railway Board are mandatory, wherein it has been envisaged that in a quasi-judicial proceedings the Disciplinary Authority as well as the Appellate Authority are to pass speaking orders indicating the reasons for maintaining the penalty.

7. As the aforesaid instructions have not been complied with and the orders passed are in violation of Rule 22(2) of the Railway Servants (D&A) Rules, the applicants have been deprieved of a reasonable opportunity to defend them inasmuch as the question of proportionality punishment and other grounds taken to assail the impugned order of penalty have not been considered, controverted or discussed by the Appeallate Authority in the order. These orders certainly are in violation of the rules as

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well as not in consonance of principles of natural justice, which envisage fair hearing as part of the quasi-judicial proceedings.

8. In the result, for the reasons recorded above, we partly allow this O.A. by setting aside the Appellate Orders evenly dated 15.12.1997 in all the three O.As. The matter is remanded back to the Appellate Authority to dispose of the appeals of the Applicants by passing a detailed and speaking order, keeping in view our observations, within a period of three months from the date of receipt of the copy of this order. No order as to costs. Copy to be kept in all the files.

(SHANKAR RAJU)
MEMBER (J).

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

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order/Judgement dt 26/6/98 despatched to Applicant/Respondent(s) on 4/7/98
O/C kept in OA 358/98
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