

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

OA 25/91 : Date of order 19.10.94

Shahabuddin : Applicant

V/s

Union of India & Others : Respondents

Mr. S.Kumar : Brief holder for Mr. J.K. Kaushik
Counsel for the applicant.

Mr. Manish Bhandari : Counsel for the respondents.

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Hon'ble Mr. Gopal Krishna, Member (Judicial)

Hon'ble Mr. O.P. Sharma, Member (Administrative)

PER HON'BLE MR. GOPAL KRISHNA, MEMBER (JUDICIAL)

Applicant Shahabuddin has prayed in this application u/s 19 of the Administrative Tribunals Act, 1985, that the charge sheet dated 9.5.85 for major penalty, the order imposing the penalty of reduction to one lower stage in the time scale passed by the Disciplinary Authority and the rejection of appeal by order dated 15.2.90 (Annexure A-3) be declared illegal and the same be quashed. The applicant has claimed all consequential benefits.

2. We have heard the learned counsel for the parties and have carefully perused the records.

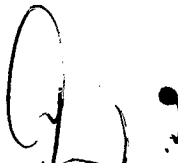
3. The applicant was served with a charge sheet for unauthorised absence from duty from 7.6.82 to 9.5.85 as well as for not depositing the tools in his charge in spite of the instructions of the concerned authorities. An enquiry was held into the charges under Rule 9 of the Railway Servants (for short, the Rules) (Discipline & Appeal) Rules, 1968. The Enquiry Officer held the charges as established. The Disciplinary Authority imposed upon the applicant the penalty of reduction to one lower stage in the time scale. The applicant appealed to the Appellate Authority but the latter maintained the order of the Disciplinary Authority. The applicant contends that he was not ^{taken} on duty from 7.6.82 and that he has been held guilty on mere conjectures and surmises. On the other hand, the respondents have stated




in their reply that the applicant had been absent from duty w.e.f. 7.6.82 and he had joined duty on 8.5.83. It is further stated that the applicant was supplied with a copy of the enquiry report on his demand and he was given full opportunity to defend himself. The appeal as well as the Review petition preferred by the applicant have already been decided. However, it transpires from the order of the Appellate Authority, communicated to the applicant vide Annexure A-3 dated 15.2.90 that the Appellate Authority while disposing^{of} the appeal against the order of the Disciplinary Authority had not considered all the points raised by the applicant in his memo of appeal dated 13.5.89 vide Annexure A-7 and had failed to comply with the requirements of the provisions contained in Rule 22(2) of the Rules.

4. In this view of the matter, without disturbing the order of the Disciplinary Authority dated 13.2.89, we set aside the orders of the Appellate Authority communicated vide Annexure A-3 dated 15.2.90 and the order of the Revising/ Reviewing Authority communicated vide Annexure R-5 dated 29.5.90 and remit the case to the Appellate Authority for deciding the appeal afresh meeting all the points raised by the applicant in the memo of appeal through a speaking order in accordance with law keeping in view the provisions contained in Rule 22(2) of the Rules within a period of four months from the date of this order.

5. The OA is disposed of accordingly, with no order as to costs.


(G.P. SHARMA)
MEMBER(A)


(GOPAL KRISHNA)
MEMBER(J)