

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

OA No. 895/93

Date of Decision:

December, 1996

BETWEEN:

K.A. Naidu

.. Applicant

AND

1. The Divisional Railway Manager,  
South Eastern Railway,  
Visakhapatnam-4.
2. Senior Divisional Electrical  
Engineer (TRD), South Eastern  
Railway, Visakhapatnam-4.
3. Deputy Chief Electrical Engineer,  
(Const.I), South Eastern Railway,  
Visakhapatnam-4.
4. Union of India, represented by its  
General Manager, South Eastern  
Railway, Garden Reach, Calcutta-43. .. Respondents



Counsel for the Applicant: Mr. Y. Subrahmanyam

Counsel for the Respondents: Mr. V. Bhimanna

CORAM:

THE HON'BLE SHRI R. RANGARAJAN: MEMBER (ADMN.)

THE HON'BLE SHRI B.S. JAI PARAMESHWAR: MEMBER (JUDL)

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" In his reply to the charge-sheet, the appeal and also the hearing, the applicant repeatedly pleaded that he had made over all the stores and had furnished some details too. In the face of this, we find that the appellate authority has not bestowed the attention required under the rules. Disciplinary proceedings are quasi-judicial in nature and the orders passed should have the attributes of a judicial order. The Hon'ble Supreme Court has observed (AIR 1970 SC 1302) that recording of reasons in support of a decision by a quasi-judicial authority is obligatory to ensure that the decisions are reached in accordance with law and not as a result of caprice, whim or fancy or reached on ground of policy or expediency. The appellate authority should cover point by point what has been stated in the appeal. In view of this infirmity in the appellate order, we remit the case back to the appellate authority to dispose of the appeal in accordance with rules.

In accordance with the directions issued by this Tribunal in the said OA, the appellate authority considered afresh the appeal preferred by the applicant and <sup>by</sup> ~~on~~ his order Dt.21/24.5.93 confirmed the punishment and rejected the appeal.

It is against this order the applicant has filed this OA on the grounds that the impugned order (Annexure-I) is in contravention of Indian Railway Store Code 3258 and the rules, that the appellate authority has not applied his mind and has not given personal hearing to explain his hearing and that he is not guilty of the charges and that the orders of the disciplinary authority and appellate authority <sup>be</sup> set aside.

Traction Power Controller (ATPC), Jagadalpur (M.P.). The applicant submits that he reported for duties at Jagadalpur on 1.2.1983. On 25.2.91 minor penalty charge sheet was served on the applicant vide WAT/TRD/8/15 alleging that at the time of his handing over charge at Waltair he had failed to handover stores material worth Rs.4,606.77P. That charge memo was issued by the Sr. Divisional Electrical Engineer, 9 TRD, Waltair.

On 8.3.1981 the applicant submitted his reply to the charge memo. The applicant has not produced the copy of the explanation submitted by him to the charge memo.

On 28.3.91 the Sr. Divisional Electrical Engineer imposed on the applicant the penalty as follows:

(a) Recovery of Rs.4,606.77P. being the value of the stores material from the applicant, and

(b) To withhold the next increment in his pay from Rs.2050-2100 for a period of 2 years without cumulative effect from the date on which the increment fell due to him.

The applicant preferred an appeal against the said order of punishment as per Annexure A-IV. The original order of punishment is at A-V. The applicant submitted <sup>an</sup> appeal to the DRM, South Eastern Railway, Visakhapatnam. The DRM by his order Dt.29.4.91 confirmed the punishment and dismissed the appeal.

The applicant challenged the punishment in OA No.834/91 before this Tribunal. On 18.3.93 this Tribunal accepted <sup>accepted</sup> this OA and set aside the order of the appellate authority with the following observations:

basing on the entries in the said book, that 12 stock sheets were prepared that balance of stores material, further stock verification was made between 13.9.84 and 15.9.84 that the remaining 8 stock sheets were prepared duly making the entries in the field book based on the balance in the books that all the records were in the custody of the applicant that the applicant was in custody of books till 14.6.85 that since the 20 stock sheets were lying unsigned on account of ~~the~~ lapse <sup>on the part</sup> of the applicant and several reminders were ~~was~~ <sup>him</sup> directing to return the stocksheets duly signed, the applicant then submitted the 12 stock sheets with his remarks along with his letter Dt.29.4.85 and with regard to 8 stock-sheets the applicant submitted that he would furnish ~~his~~ explanation. Subsequently, the applicant neither submitted his explanation nor sent the 8 stock sheets. That thereafter the applicant returned some materials on 20.6.86 <sup>along with</sup> ~~before~~ his letter Dt.20.6.86. The fact has been admitted by the applicant in his letter forwarded to the respondents No.3 on 30.9.96. That while furnishing the remarks to the 12 stocksheets the applicant stated that certain items were in unserviceable condition and that the said materials would be made DS-8 after obtaining permission from the competent authority. That the applicant though made such remarks neither returned the materials nor made DS 8 and produced the relevant records since instead of September 1985, that the applicant <sup>had</sup> handed over the materials he was proclaiming that he was not stocking the material that he <sup>had</sup> handed over all the material, that therefore, there was no option than to propose recovery of the cost of the materials. That the charge sheet was therefore

The respondents filed counterstating that the applicant failed to place any material on record to show that he handed over all the store material ~~on record~~ which ~~was~~ <sup>was</sup> in posession under his custody prior to relief from Waltair and the applicant himself had expressed his inability to handover the stores material lying with him on the pretext that some of the stores items were in scrap condition and were required to be made DS-8 as per para 3258(S) of the stores code that some materials were lying at Jagadalpur where he was initially posted as AEFO at S.Kota that he failed to maintain relevant records and prayed for time that, therefore, the applicant was released to open line due to exigencies of work that the applicant himself had kept the keys of the stores and the records were under his control that the applicant did not turn up for handing over the materials. Then the 2nd respondent was requested to take necessary action vide letter Dt.18.4.84 by ~~of~~ 3rd respondent, that the applicant informed the respondent No.3 his inability to handover the material as the time at his disposal was not sufficient to clear of all the works and prayed for ~~the~~ extension of time, that the allegation made by the applicant in the application against Mr. Sanyasi Rao and Mr. V.N. Murthy are baseless and that the applicant was required to handover the stores material to the person nominated for such units, that during final stock verification the relevant entries in their registers were made nil according to the verification conducted from 11.8.84 in the presence of the applicant and ~~that~~ <sup>and</sup> the stock verification ~~which~~ took place between 11.8.84 and 17.8.84. The applicant in token of acceptance of the stock signed the field book maintained by the stock verifier

of right to personal hearing applicable to a judicial trial or proceeding even at the appellate stage is not applicable to the departmental inquiries in which the decision of the appellate authority can generally be taken on the basis of the records before it. However the rule does not preclude the grant of personal hearing in suitable cases. In this case the appeal was against imposition of a minor penalty. The charge against the applicant was that he had failed to hand over the stores material worth Rs.4,606.77 P. to the electrical foreman on his transfer to Jagadalpur. The applicant now invents a concocted story of obtaining his signatures on stocksheets by Sanyasi Rao and V.N. Murty under threat and coercion. We are not persuaded to accept the theory of the applicant. The applicant has not produced any material to show that he had handed over all the stores materials and records to the electrical foreman. The respondents have explained the circumstances under which 20 stock sheets were prepared on physical verification in the presence of the applicant. It is stated that physical verification was done by the applicant, stock verifier and other officers between 11.8.84 and 17.8.84 and 13.9.84 and 15.9.84. It is during the physical verification of the stock of the materials that 20 stock sheets came to be prepared. The applicant dodged to furnish the duly signed stocksheets. The applicant found liable to account the stock materials detailed in the charge memo. The charge levelled against the accused related to 8 stock certificates.

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issued on the applicant. That there was no collusion to issue the chargesheet to the applicant. That the applicant was given sufficient time to explain and handover the stores material. That the 20 stock sheets prepared related to Electrical Foreman, RA Waltair and the responsibility of shed <sup>was</sup> ~~had~~ with the electrical foreman that only after ~~the~~ verification of the stock a certificate could have been obtained to that affect that such certificate could not be obtained since the applicant personally witnessed the stock verification and partly producing the materials and records which were under his control and custody, and that therefore, it is clear that the applicant had failed to hand over the stores material to the electrical foreman.

From the material placed on record it is clear that the applicant had <sup>not</sup> fully handed over the stores materials and records to the electrical foreman on his transfer to Jagadalpur. The authorities evaluated the materials which were not handed over to the electrical foreman.

The contention of the applicant in this OA is that the appellate authority has not given him personal hearing. There is no obligation on the part of the appellate authority to give <sup>him</sup> an opportunity to the applicant for personal hearing before deciding the appeal. Further, the Rule 27 of the CCS (CCA) Rules 1975 does not specifically provide a grant of personal hearing by the appellate authority to the delinquent employee <sup>in the appeal,</sup> preferred by him against a penalty imposed on him. The ~~liberty of~~ <sup>opportunity of</sup>

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After considering the material placed on record we find no reasons to interfere with the impugned orders. The appellate authority has considered the grounds made by the applicant in the memorandum of appeal. The applicant pleaded for an inquiry. The appellate authority considered that aspect and forms <sup>el</sup> an opinion that since the charge memo was issued to impose a minor penalty a detailed inquiry was not justified.

We feel that there are no merits in this O.A. Accordingly this OA is dismissed. No orders to costs.

प्रमाणित कृति  
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न्यायालय अधिकारी  
**COURT OFFICER**  
केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
हैदराबाद न्यायालय  
**HYDERABAD BENCH**