

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH
JAIPUR.

O.A.No.276/93

Dt. of order: 23.11.93

Narendra Mohan Sharma : Applicant

Vs.

Union of India & Ors. : Respondents

Mr.R.N.Mathur : Counsel for applicant

Mr.Manish Bhandari : Counsel for respondents

CORAM:

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

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

PER HON'BLE MR.O.P.SHARMA, MEMBER(ADM.).

Applicant Shri Narendra Mohan Sharma, has filed this application under Sec.19 of the A.Ts Act, 1985, praying that the order dated 13.11.91 (Annx.A-1) by which a penalty of reduction in lower grade for a period of two years with future effect, and Annexure A-2 dated 20.4.92 by which the Appellate Authority (Divisional Railway Manager, Kota) has dismissed the appeal of the applicant may be quashed. He has further prayed that the proceedings of the enquiry held in the case of the applicant may be declared as illegal.

2. Proceedings under Rule 6 of the Railway Servants (Discipline & Appeal) Rules, were initiated against the applicant by issuing memorandum of charges dated 31.1.89. On his denying the charges, the enquiry was held. The Inquiry Officer submitted his report dated 30.7.91 (Annx.R-1) in which a part of the charge framed against the applicant was held as established. The disciplinary authority vide order dated 13.11.91, Annx.A-1, imposed the penalty of reduction in lower grade for a period two years with future effect, on the applicant for the reasons given in the said order. He preferred an appeal against the said order imposing penalty. The Appellate Authority, the Divisional

Railway Manager, Kota, dismissed the appeal vide order dated 20.4.92. The applicant is aggrieved by the findings of the Inquiry officer, the order of the Disciplinary Authority and the order of the Appellate Authority.

3. We have heard the learned counsel for the parties and have also gone through the records. The operative part of Anxx.A-2, which is order dated 20.4.92 passed by the Appellate Authority reads as under:

"I have gone through the Enquiry Report, order of the Disciplinary Authority and appeal of the employee.

I consider that the punishment awarded is just and adequate and there is no need to revise the punishment awarded. I confirm the punishment awarded by Disciplinary Authority."

4. Rule 22 of the Railway Servants (Discipline & Appeal) Rules, provides for consideration of appeals, lays down that the Appellate Authority shall inter alia consider (a) whether the procedure laid down in these rules has been complied with, and if not, whether such noncompliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice; (b) whether the findings of the disciplinary authority are warranted by the evidence on the record; and (c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe.

5. It is obvious that the Appellate Authority while disposing of the appeal has only given some findings with regard to the quantum of the penalty imposed and not with regard to the items mentioned at (a), (b) ~~and~~ ~~and~~ above. In the circumstances, the order of the Appellate Authority not being in accordance with the prescribed rule cannot be sustained. The said order is quashed. We, therefore, direct that the Appellate Authority shall consider the applicant's appeal against the order of the Disciplinary Authority afresh and pass a detailed speaking

order in accordance with the provisions of Rule 22 including in particular the provisions at (a), (b) & (c) reproduced above. The appellate authority shall pass necessary order within a period of three months from the date of receipt of a copy of this order.

6. The O.A. is disposed of accordingly with no order as to costs.

(O.P.Sharma)
Member (A).

Krishna
(Gopal Krishna)
Member (J).