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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of order : 04.07.2000

O.A. No. 214/1994

Chunni Lal son of Shri Sohan Lal aged 37 years resident of Plot No. 28/P, Virat Nagar, Kalyanipura, Ajmer, now-a-days working as Clerk, Loco Establishment-4, in the office of Chief Works Manager, Ajmer Division, Western Railway, Ajmer.

... Applicant.

versus

1. Union of India through the General Manager, Western Railway, Church Gate, Bombay - 20.
2. Senior Personnel Officer (Workshop), Western Railway, Ajmer.
3. Shri Babu Lal Tak, Enquiry Officer & Shop Superintendent (L.G. Section), Loco Workshop, Western Railway, Ajmer.

... Respondents.

Mr. S.K. Jain, Counsel for the applicant.

Mr. S.S. Hasan, Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman.

Hon'ble Mr. N.P. Nawani, Administrative Member.

O R D E R

(Per Hon'ble Mr. Justice B.S. Raikote)

The applicant has challenged the orders dated 7.4.94 vide Annexure A/1 and 15.4.94 vide Annexure A/1A by which the applicant was awarded punishment of reduction to lowest scale of Khallasi for a period of three years with future effect affecting his seniority and increment etc. These orders were challenged raising number of grounds that there is no evidence to prove the charges etc. By filing the reply, the respondents have contended that against the order of disciplinary authority, the applicant had filed an appeal before the appellate authority and the said appeal has been partly allowed by order dated 30.9.94 by modifying the punishment. But the said order has not been challenged by the applicant. Therefore, this application is liable to be dismissed. As against this argument, the contention of the applicant is that after filing the appeal, the order of the appellate authority has not been

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communicated to him and he was not aware of the order. He further submitted that the said order, even it is passed, it is passed without hearing of the applicant. Therefore, this application mertis to be allowed.

2. The learned counsel on both sides raised number of other contentions having regard to the merits of the case with reference to the order of the disciplinary authority. But as submitted by the learned counsel for the respondents, the said order of the disciplinary authority has already merged with the order of the appellate authority and we have to consider the order of the appellate authority. Even though the same has not been challenged in this application, the respondents have placed the records of the appellate authority. We find from the records that the order of the appellate authority dated 30.9.94 is placed at page No. 19 and the said order reads as under:-

“ पंक्तिचम रेलवे

सुख्य कारब्याना प्रबंधक का कार्यालय,
अजमेर,

मा. इंडिया 308। संख्या। ही। 93-19 दिनांक 30-9-1994

श्री चुन्नी लाल, आमी, डि. नं. 54430/13,
यार्ड कार्यालय, लोको, अजमेर,

दाता - क.शाय अधीक.यार्ड लोको, अजमेर,

विषय: अनुशासनिक कार्यवाही - अपील,

लन्दर्भ: 1- तमसंख्यक सनातार्डपी दि. 7-4-94 संवं

कार्या.आदेश दि. 15 120-4-94.

2- आपली अपील दि. 15-4-94.

आपली अपील दि. 15-4-94 पर निम्नलिखित वे निम्न आदेश
दिये हैं:-

“मैंने कैल का अध्ययन किया और पाया कि कर्मचारी 6-4-93 से
30-4-93 तक अनाधिकृत अनुपालित रहने का दौषिण है। कर्मचारी ने
अपनी आपील में अपने निर्दोष होने का कोई ठोस प्रमाण नहीं दिया है,
फिर भी धारादीय आधार पर और प्रार्थी के आवश्यकन को ध्यान में
रखते हुए कि वह ऐसी गलती हुआ रहा नहीं करेगा, मैं प्रार्थी को लिपिक
केतनगाम 950-1500 (आरपी) में केतन रु. 1050/- पर पुनः पदाधारित
करते हुए प्रार्थी को दो कर्ज की वार्षिक केतनवृद्धि भविष्य को प्रभावित

करते हुए स्थगन आदेश देता हुं जो कि उसकी करीबता व घेतन वृद्धि को प्रभावित करेगी ।

कृपया इस पत्र की पावती देवें ।

दस्तावेज़

उप मु. या. ई, बूलोको, अजमेर

प्रतिलिपि-

- 1- का.आ.स्था-१३८८०१०१, स्था-२, ३, घेतन पत्र, स्था-४ लोको, अजमेर.
- 2- का.आ.समय कार्या.लोको, अजमेर.
- 3- मु.लि.हुर्टा, पास, सेवा पंजिका, व्यापितगत फाफल लोको, अजमेर.
- 4- उप.मु.ले.अधि. १३८८०१०१०१, अजमेर.
- 5- उत्पा, हंजी लोको, अजमेर.
- 6- क.शाप अधी. याई लोको, अजमेर. "

3. From the reading of the above order, we find that the appellate authority has not given personal hearing to the applicant in terms of Rule 22(2) of the Railway Servants (Discipline & Appeal) Rules, 1968. Hon'ble the Supreme Court in AIR 1986 SC 1173 by interpreting the Rule 22(2) of the said Rules has held that giving personal hearing to the applicant is mandatory. In these circumstances, the order of the appellate authority which has been produced before us, is contrary to the law declared by Hon'ble the Supreme Court and the same is liable to be set aside on this count alone. Without expressing any opinion regarding the other contentions raised in this application, we think it fit to allow the application and quash the order of the appellate authority dated 30.9.94 by exercising our inherent jurisdiction.

4. As stated above, the appellate order has not been challenged in this application. But by filing the reply, the respondents have stated that the appellate authority passed an order dated 30.9.94 vide Annexure R/1. But alongwith the reply, the copy of order Annexure R/1 is not produced. In these circumstances, the respondents have produced the original records and we quash the order of the appellate authority dated 30.9.94 by extracting the same from the original records. The office is directed to take zerox copy of the order of the appellate authority from original file/records and kept it alongwith the records of this file. Accordingly, we pass the order as under:-

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5. The order of the Dy. C.M.E., Ajmer, the appellate authority, dated 30.9.94 is hereby quashed and the matter is remanded back to the appellate authority for fresh consideration according to law. The appellate authority shall decide the appeal keeping in view the requirement of Rule 22(2) of the Railway Servants (Discipline & Appeal) Rules, 1968, after affording a personal hearing to the applicant, within a period of three months from the date of receipt of a copy of this order. No costs.


(N.P. NAWANI)

Adm. Member


(B.S. RAIKOTE)

Vice Chairman

cvr.