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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.

v e r s u s

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

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 merits 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:-

“ पश्चिम रेलवे

मुख्य कारखाना प्रबंधक का कार्यालय,  
अजमेर,

सं. इंडव्यू 308/एमजे।सी।93-19 दिनांक 30-9-1994

श्री चुन्नी लाल, छाती, टि.नं.54430/13,  
गार्ड कायां, लोको, अजमेर,

द्वारा - क.शाप अधी.गार्ड लोको, अजमेर,

विषय: अनुशासनिक कार्यवाही - अपील,

सन्दर्भ: 1- तमसंख्यक स्नआईपी दि. 7-4-94 एवं  
कार्या.आदेश दि. 15 128-4-94.

2- आपकी अपील दि. 15-4-94.

आपकी अपील दि. 15-4-94 पर निम्नहस्ताक्षरी ने निम्न आदेश  
दिये हैं:-

“मैंने कैस का अध्ययन किया और पाया कि कर्मचारी 6-4-93 से  
30-4-93 तक अनाधिकृत अनुपस्थित रहने का दोषी है। कर्मचारी ने  
अपनी अपील में अपने निर्दोष होने का कोई ठोस प्रमाण नहीं दिया है,  
फिर भी मानवीय आधार पर और प्रार्थी के आश्वासन को ध्यान में  
रखते हुए कि वह ऐसी गलती द्वारा नहीं करेगा, मैं प्रार्थी को लिपिक  
वेतनमान 950-1500 {आरपी} में वेतन रु. 1050/- पर पुनः पदस्थानित  
करते हुए प्रार्थी को दो वर्ष की वार्षिक वेतनवृद्धि भविष्य को प्रभावित

लगातार .. 3/-

करते हुए स्थान आदेश देता हूँ जो कि उसकी वरीयता व वेतन वृद्धि को प्रभावित करेगी । "

कृपया इस पत्र की पावती दें ।

हस्ताक्षर

उप मु. यां. ई, लोको, अजमेर

प्रतिलिपि-

- 1- का.अ. स्था-॥आटी॥, स्था-2, 3, वेतन पत्र, स्था-4 लोको, अजमेर.
- 2- का.अ. समय कार्या. लोको, अजमेर.
- 3- सु. लि. कुट्टी, पास, सेवा पंजिका, व्यक्तिगत फाइल लोको, अजमेर.
- 4- उप. मु. ले. अधि. ॥कावन॥, अजमेर.
- 5- उत्पा. इंजी लोको, अजमेर.
- 6- क. शाप अधी. यार्ड 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 xerox 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:-

(12)

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.