

THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 92/99
T.A. No.

200

DATE OF DECISION _____

Jaggo

Petitioner

Mr. Mohd Iqbal Khan

Advocate for the Petitioner(s)

Versus

UOI and three others.

Respondent

Mr. T.P. Sharma

Advocate for the Respondents(s)

CORAM:

The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman.

The Hon'ble Mr. A.K. Bhandari, Administrative Member.

(A.K. Bhandari)
Administrative Member.

(G.L.Gupta)
Vice Chairman.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

CENTRAL ADMINISTRATIVE TRIBUNAL.

JAIPUR BENCH: JAIPUR

O.A. No. 92/99:

Date of decision: 29.9.03

Jaggo, S/o Shri Kharga, r/o Ashok Nagar, Post Helak, District Bharatpur. (Raj)

: Applicant.

VERSUS

1. The Union of India through the General Manager, Western Railway, Church Gate Mumbai.
2. Senior Divisional Engineer (H.Q) & Appellate Authority, Western Railway, Ratlam.
3. Additional Railway Manager, Ratlam Division, Ratlam.
4. Assistant Engineer (East) Western Railway, Ratlam.

: Respondents.

Mr. Mohd Iqbal Khan : Counsel for the applicant.

Mr. Tej Prakash Sharma : Counsel for the respondents.

CORAM:

The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman.

The Hon'ble Mr. Ashok Bhandari: Administrative Member.



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ORDER

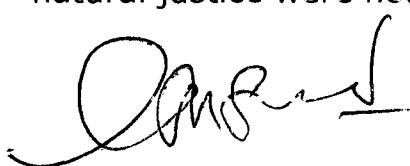
Per Mr. Justice G.L.Gupta:

Through this application, the applicant calls in question the order of removal dated 04.11.96 (Annex. A.1), order of the Appellate Authority dated 18.12.97 (Annex. A.2) and the order of the Reviewing Authority dated 06.05.98, (Annex. A.3).

2. It is stated that in December 1995, there was an incident in which some persons attacked the applicant and he had sustained injuries, and as a result of injuries, he had remained on leave from 10.12.95 to June 1996. However, it is alleged, the respondents served charge-sheet dated 02.05.96, on the applicant for remaining absent from duty from 10.12.95. The applicant submitted his reply and the inquiry was conducted by the Inquiry Officer, who submitted his report on 06.10.96.

2.1 The say of the applicant is that the Assistant Engineer, without giving him opportunity to show cause against the inquiry report directly passed the order on 04.11.96, removing him from service which is in violation of Railway Servants (Discipline and Appeal) Rules, 1968 (RSDA Rules for short).

3. In the counter, the respondents have stated that because of remaining absent from duty unauthorisedly, the charge sheet was served on the applicant and he was given full opportunity to defend the case. It has been further stated that the principles of natural justice were not violated in the in the case.



4. In the rejoinder, the applicant has reiterated the facts stated in the O.A.

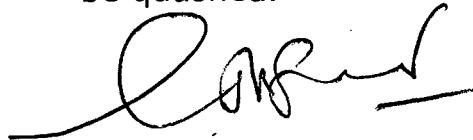
5. We have heard the learned counsel for the parties and perused the documents placed on record.

6. The main contention of the learned counsel for the applicant was that the applicant was not supplied copy of the Inquiry Report and as he could not submit his defence against the enquiry report, the order of penalty is not sustainable.

7. The learned counsel for the respondents frankly conceded that copy of the inquiry report was not supplied to the applicant.

8. It is settled legal position that when a copy of the inquiry report is not supplied to the delinquent employee and he is not given opportunity to have his say against the inquiry report, the order passed on such report is not sustainable in law. Therefore this O.A deserves to be allowed on this ground alone.

9. It is also seen that the Appellate Authority did not pass a speaking order while deciding the appeal. In the order of the Appellate Authority even it is not stated that the Appellate Authority concurred with the findings recorded by the Disciplinary Authority holding the charges proved against the applicant. On this ground also the impugned orders are liable to be quashed.



10. Consequently the O.A is allowed. The impugned orders Annex. A.1, A.2 and A.3 are hereby quashed. The Disciplinary Authority is directed to supply copy of the Inquiry Report to the applicant and after giving him an opportunity to have his say against the report it can pass appropriate order. In case the applicant is aggrieved by the order of the Disciplinary Authority, he shall be at liberty to challenge that order in accordance with law.

11. No order as to costs.

X 2 n 31
(A.K. BHANDARI)
Administrative Member

G.L.Gupta
(G.L.GUPTA)
Vice Chairman

JSV