

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 22.11.2000

OA No.130/1999

Ram Dass s/c Shri Chetan, working as Mate, under PWI Mandgarh, Western Railway, Kota and resident of Mandgarh, Distt. Rajsamand.

.. Applicant

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, Kota Division, Kota.
3. Asstt. Engineer, DRM Office, Western Railway, Kota Division, Kota.

.. Respondents

Mr. Rajveer Sharma, counsel for the applicant

Mr. T.P.Sharma, counsel for the respondents

CORAM:

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

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

Order

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

Though the matter is posted at the admission stage but on the consent of both the parties, this matter is taken up for final hearing.

2. The learned counsel for the applicant submitted that as directed by this Tribunal vide order dated 13.3.2000, the Appellate Authority has no doubt remanded the matter to the Disciplinary Authority for disposal but without setting-aside the order of the Disciplinary Authority. He further submitted that the consequential order of remand would be setting-aside the order of the first authority by the Appellate Authority *and then only* is not done. The learned

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counsel for the respondents does not dispute that there is no clear observation in the order of the Appellate Authority whether the order of the Disciplinary Authority is set-aside or not.

3. Both the counsel took us through the order of the Disciplinary Authority as extracted in the reply of the respondents.

4. From going through the order, we find that the Appellate Authority has remanded the case for fresh disposal. From the nature of the order, it is clear that the Appellate Authority has set-aside the order of the Disciplinary Authority. Even otherwise, if it is not set-aside, the order of remand would definitely have the only consequence that the order of the first authority is set-aside. Having regard to these circumstances, the clarification at the hands of this Tribunal is whether the order of the Disciplinary Authority stands set-aside by the order of the Appellate Authority remanding the case back or not would be required. When the matter is remanded for consideration of the case afresh, it keeps the parties in the position they occupied before the authority below.

5. In view of these circumstances, we are of the opinion that by the order of the Appellate Authority, the order of the Disciplinary Authority is deemed to have been set-aside. Even otherwise, without leaving room for any kind of dispute or doubt, we think it appropriate to set-aside the order of the Disciplinary Authority. Accordingly we pass the order as under:-

"The order of the Appellate Authority remanding the matter for fresh disposal before the Disciplinary Authority stands. The order of the Disciplinary Authority is hereby set-aside and with a direction that the applicant be put to the



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position he occupied before the order of the Disciplinary Authority was passed, with all consequential benefits. Now, it is open to the Disciplinary Authority to proceed with the case and pass final order in compliance of the directions of the Appellate Authority."



(N.P.NAWANI)

Adm. Member



(B.S.RAIKOTE)

Vice Chairman