

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA No.69/1999

Date of order: 6.5.1999

Bijendra Singh S/o Shri Phool Singh, aged around 45 years, resident of Chabra Gugaur Baran.

.. Applicant

Versus

1. Union of India through the General Manager, Western Railway, Church Gate, Mumbai.
2. The Divisional Railway Manager (Estt.), Western Railway, Kota Division, Kota.
3. The Additional Divisional Railway Manager, Western Railway, Kota Division, Kota.
4. The Senior Divisional Engineer (HQ), Western Railway, Kota.

.. Respondents

Mr. Rakesh Sharma, counsel for the applicant

Mr. U.D.Sharma, counsel for the respondents

CORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member

ORDER

Per Hon'ble Mr. Gopal Singh, Administrative Member

Applicant, Bijendra Singh, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the impugned orders dated 27.10.98, 22.1.99 and 27.1.99.

2. The applicant's case is that he was chargesheeted for the alleged misconduct while he was functioning as PWI-CAG in the year 1989 and 1990. An Inquiry Officer was appointed and the Inquiry Officer held that the charges are not proved against the applicant. The Disciplinary Authority disagreeing with the Inquiry Officer imposed a penalty on the applicant of reduction to the lower grade. It is the contention of the applicant that the Disciplinary Authority

*Gopal S.*

should have imposed the penalty only after giving a show cause notice to the applicant after considering his representation in this regard.

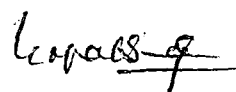
3. We have heard the learned counsel for the parties and perused the records of the case. The learned counsel for the applicant has brought to our notice Railway Board's Circular No. E(D&A)87 RG 6-151 dated 4.4.96 printed as R.B.E. No. 33/96 in Bahri's RBO 1996 which inter alia provided as under:

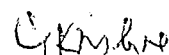
"5. It has also been decided that where the Inquiry Authority holds a charge as not provided (proved) and the disciplinary authority takes a contrary view, the reasons for such disagreement must be communicated, in brief, to the charged officer alongwith the report of the Inquiry so that the charged officer can make an effective representation. This procedure would require the Disciplinary Authority to first examine the report as per the laid down procedure and formulate its tentative views before forwarding the Report of Inquiry to the Charged Officer."

In terms of the above instructions, the Disciplinary Authority should have communicated the reasons for disagreement to the charged officer so that the charged officer can make an effective representation. There has thus been a procedural lapse in processing the disciplinary proceedings case and, therefore, the disciplinary authority's order dated 27.10.98 and consequential orders dated 22.1.99 and 27.1.99 cannot be sustained. We are also fortified in our view by a decision reported in (1998) 7 SCC 84.

4. In the light of the above discussions, the impugned orders dated 27.10.98, 22.1.99 and 27.1.99 are set aside and the case is remitted back to the Disciplinary Authority with a direction to proceed afresh from the stage of communicating his disagreement with reasons thereof with the findings of the Inquiry Officer to enable the applicant to make representation thereof.

5. The OA is accordingly disposed of with no order as to costs.

  
(GOPAL SINGH)  
Adm. Member

  
(GOPAL KRISHNA)  
Vice Chairman