

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No.
T.A. No.

420/2000

199

Hon'ble V.C.
May kindly see
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20/11/02

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DATE OF DECISION _____

Adityendra Bahadur Kulshrestha

Petitioner

Mr. R.B. Kulshrestha

Advocate for the Petitioner (s)

Versus

Union of India & Others

Respondent

Mr. T.P. Sharma

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr.

G.L. Gupta, Vice Chairman

The Hon'ble Mr.

Mr. A.P. Nagrath, Administrative Member

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 ?

(A.P. NAGRATH)
MEMBER (A)

(G.L. GUPTA)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

O.A. No. 420/2000.

Date of Decision 21/11/2002

Adityendra Bahadur Kulshrestha

... APPLICANT.

v e r s u s

1. Union of India through the General Manager, Western Railway, Head Office, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, Jaipur Railway Division, Jaipur and
3. Senior Divisional Mechanical Engineer, Western Railway, Jaipur Railway Division, Jaipur.

...RESPONDENTS.

Mr. R. B. Kulshrestha, counsel for the applicant.
Mr. T. P. Sharma, counsel for the respondents.

CORAM

Hon'ble Mr. Justice G. L. Gupta, Vice Chairman.
Hon'ble Mr. A. P. Nagrath, Administrative Member.


: O R D E R :
(Per Hon'ble Mr. A. P. Nagrath)

A chargesheet for minor penalty was issued to the applicant on 30.04.1999. He replied to the said charges on 14.05.1999. After considering his explanation, the Disciplinary Authority imposed a penalty of stoppage of increment for one year without future effects. The applicant submitted an appeal against this order vide a letter dated 30.07.1999. The Appellate Authority i.e. Additional Divisional Railway Manager vide order dated 13.09.1999 (Annexure A-1) reduced the penalty to stoppage of one increment for six months without future effects. Dissatisfied with these orders, the applicant has filed this OA for

quashing and setting aside the order dated 13.09.1999 (Annexure A-1).


2. Learned counsel for the applicant, Shri R. V. Kulshrestha, argued at great length to stress that the respondents have not cared to conduct proper enquiry into the allegations and that there was no preliminary enquiry conducted into the case. The two charges included in the articles of charges have been considered as established without any enquiry and punishment imposed. He very strangely urged that there was no substance in the charges and they were simply foisted on the applicant. Before imposing a penalty, no personal hearing was granted to the applicant. He has also filed written submissions on behalf of the applicant which are generally on the lines of the averments made in the OA. Apart from pleading, that the charges have not been investigated properly, it has also been alleged that the Appellate Authority has not applied his mind to the points raised by the applicant in his appeal and no reasons have been indicated in the order for imposing the particular penalty.

3. Learned counsel for the respondents Shri T. P. Sharma submitted that it was a case of minor penalty, for which notice under Standard Form 11 was given to the applicant. In such a case, it was not necessary to hold any enquiry. The Disciplinary Authority had considered the reply of the respondents



to the chargesheet and passed the order of penalty. The appeal has been duly considered by the Appellate Authority who has reduced the punishment from stoppage of increment for one year to that of stoppage of increment for six months only without future effect. Shri T. P. Sharma strongly urged that there was absolutely no case for the applicant to agitate.

4. The scope of judicial review in the matters of disciplinary proceedings is rather limited. The Courts and Tribunals are only required to see whether the statutory provisions have been observed and whether there has been any violation of the rules of natural justice. In the cases relating to imposition of minor penalty, if the chargesheet has been served on the delinquent official and his reply to that chargesheet has been considered by the appropriate authority, nothing further requires to be done. The only requirement is whether the orders passed by the Disciplinary Authority or the Appellate Authority are speaking and reasoned orders. There is no provision under the rules for affording a personal hearing to the delinquent. In State Bank of Patiala vs. Mahinder Kumar Singhal 1994 SCC 1&S 1017, the issue before the Apex Court was whether affording the personal hearing by the Appellate Authority was obligatory. It was answered that in absence of any rule requiring the Appellate Authority to grant a personal hearing, it is not necessary to confer this rights of audience. It was observed that the rule of



natural justice does not confer a right of audience at the appeal stage. In the light of such settled legal position, there is no merit in the arguments of the applicant that he was not heard before the Appellate Authority passed an order in the appeal. There is no such provision in the, The Railway Servants Discipline & Appeal Rules, 1968.

5. Having said that, we have perused the order of the Appellate Authority. We find it is a cryptic order and does not address itself to the contentions raised by the applicant in his appeal. It does not have even the character of a reasoned and speaking order as required under the rules. Even the respondents department has emphasised this aspect right from 1955 onwards, vide Railway Board's letter E(D&A) 56 RG 6-14 dated 20.12.1955, it had been clearly laid down that when the explanation of the delinquent has not been considered satisfactorily, the Competent Authority invariably must record reasons for rejecting the explanation. It was also mentioned therein that sketchy and cryptic orders have ben held by the Court of law to be non speaking and illegal. This position has been reiterated from time to time. In the instructions contained in letter dated 20.01.1986 (R.B.E. 5/85), it has been stated as under:-

" D&AR cases-Need for speaking orders - As is well settled by the courts, the disciplinary proceedings are quasi-judicial in nature and it is necessary that orders in such proceedings are

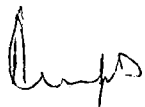


issued only by the competent authority who have been specified as Disciplinary/Appellate/Revising authorities under the rules and the orders should have the attributes of a judicial order. Supreme Court in one case observed that recording of reason is obligatory as it ensures that it is as per law and not capricious.

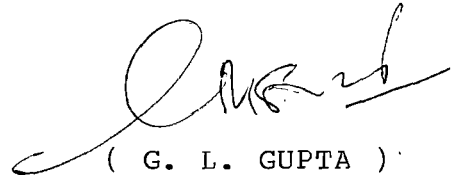
[F(D&A)86 RG 6/1 of 20.1.86 (RBE 5/86)]"

6. In the case before us, the Appellate Authority's order does not even touch upon any of the contentions except mentioning that the Appellate Authority has gone through the contents of the appeal while reducing the punishment but no reasons have been given as to why a punishment must be awarded. For this reason we are of the view that the order of the Appellant Authority is not sustainable.

7. We, therefore, allow this OA and quash and set aside the order of the Appellate Authority. However, we wish to make it clear that the Appellate Authority is free to pass any fresh reasoned and speaking order after taking into account the contentions of the applicant as brought out in his appeal dated 30.07.1999. This shall be done within a period of three months from the date of communication of this order. Under the circumstances, no order as to costs.



(A. P. NAGRATH)
MEMBER (A)



(G. L. GUPTA)
VICE CHAIRMAN