

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

6

O.A.No. 2

of 1998

DATE OF DECISION.....4.6.1999

Shri H.L. Acharjee

(PETITIONER(S))

Mr G.K. Bhattacharyya, Mr G.N. Das and

ADVOCATE FOR THE
PETITIONER(S)

Ms B. Dutta Das

-VERSUS-

The Union of India and others

RESPONDENT(S)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Mr B.K. Sharma, Railway Counsel

ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR JUSTICE D.N. BARUAH, VICE-CHAIRMAN
THE HON'BLE

(PETITIONER(S))

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

ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Judgment delivered by Hon'ble Vice-Chairman

RESPONDENT(S)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE
THE HON'BLE

DATE OF DECISION.....

(PETITIONER(S))

1. Whether Reporters of local papers may be allowed to see the Judgment ?

To be referred to the Reporter or not ?

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.2 of 1998

Date of decision: This the 4th day of June 1999

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

Shri Hira Lal Acharjee,
Travelling Ticket Examiner,
N.F. Railway, Lumding,
Under Divisional Railway Manager (C),
Lumding, Nagaon, Assam.Applicant.
By Advocates Mr G.K. Bhattacharyya,
Mr G.N. Das and Ms B. Dutta Das.

- versus -

1. The Union of India, represented by the
General Manager,
N.F. Railway,
Maligaon, Guwahati.
2. The Divisional Railway Manager,
N.F. Railway, Lumding.
3. The Senior Divisional Commercial Manager,
N.F. Railway, Lumding.
4. The Chief Travelling Ticket Inspector-I,
N.F. Railway, Lumding.Respondents
By Advocate Mr B.K. Sharma, Railway Counsel.

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O R D E R

BARUAH.J. (V.C.)

This application has been filed by the applicant challenging the penalty of withholding increment for two years. This is a minor penalty under the Rules. He has also challenged the Appellate Order dated 21.8.1997 on the ground that the Appellate Authority did not properly consider his appeal. Besides the appellate order was not a speaking order.




2. An article of charge together with statements of imputation was served on the applicant on 3.2.1994 asking him to show cause as to why disciplinary action should not be taken against him. The applicant duly replied to the show cause notice. The Disciplinary Authority, not being satisfied with the reply, decided to hold an enquiry. An Inquiry Officer was appointed. Inquiry Officer held the enquiry and thereafter submitted his report finding him guilty of the charge. Thereafter the Disciplinary Authority awarded a minor penalty of withholding increment for two years. The contention of the applicant is that the enquiry report was not served on him to enable him to make effective representation. The Disciplinary Authority also while awarding punishment observed as follows:

"..... that the findings and documents have been examined. Defence is not accepted as CTTI's report stands out against all other evidences. However, considering the unreliable witnesses who have signed without actually witnessing a crime and the long delay in the DAR enquiry with (sic) 10 months. Suspension served adding to misery of the defendent. Hence your next increment is stopped for two years (N.C) by converting Major penalty to minor."

It is not known on what basis the Disciplinary Authority found the applicant guilty of the cahrges. Even though he himself has mentioned at Annexure IV that the witnesses were not reliable. Being aggrieved the applicant preferred an appeal before the Appellate Authority. The Appellate Authority also by Annexure 6 order dated 18/21.8.1996 rejected his appeal. The appeal was disposed of with the following order:

"Your appeal was put up to the Appellate Authority (DRM/LMG) and he has regretted your appeal."

This order in my opinion is absolutely a cryptic one. The order was passed without any reason. I feel the Appellate

 Authority.....

Authority is required to consider the grievances of the applicant afresh and thereafter pass a reasoned order. On the face of it, it appears that the enquiry report was not served on the applicant. The Disciplinary Authority also passed the order without referring to the decision of the Inquiry Officer. As the appellate order was passed without giving any reason it is difficult for the Tribunal to come to a definite finding.

3. In view of the above, I dispose of this application setting aside the order of the Appellate Authority and direct the Appellate Authority to dispose of the appeal of the applicant by a reasoned order. While disposing of the appeal the applicant may be heard personally or his representative, if so desires. Disciplinary Authority shall give at least ten days notice to the applicant before the personal hearing. This must be done as early as possible at any rate within a period of four months from the date of receipt of this order.

4. With the above directions, the application is disposed of.

Considering the facts and circumstances of the case, I however make no order as to costs.



(D.N. BARUAH)
Vice-Chairman