

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. 17 of 1998

28.4.1999

DATE OF DECISION.....

Shri B.C. Dey

(PETITIONER(S))

Mr G.K. Bhattacharyya, Mr G.N. Das and
Ms B. Dutta Das

ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India and others

RESPONDENT(S)

Mr S. Sengupta, Railway Counsel

ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR JUSTICE K. M. AGARWAL, CHAIRMAN

THE HON'BLE MR G.L. SANGLYINE, ADMINISTRATIVE MEMBER

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 ?

Judgment delivered by Hon'ble Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.17 of 1998

Date of decision: this the 28th day of April 1999

The Hon'ble Mr Justice K.M. Agarwal, Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri Bhajan Chandra Dey,
Resident of Institute Colony,
Babapatty, 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,
Nagaon, Assam.
3. The Senior Divisional Operations Manager,
N.F. Railway, Lumding,
Nagaon, Assam.
4. The Chief Medical Director,
N.F. Railway, Maligaon,
Guwahati.

.....Respondents

By Advocate Mr S. Sengupta, Railway Counsel.

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O R D E R

AGARWAL.J. (CHAIRMAN)

By this original application the applicant wants the impugned order of removal from service to be quashed.

2. At the relevant time, the applicant was Points Man at Lumding. He remained absent from service from 18.6.1988 to 7.12.1994. Accordingly a departmental enquiry was started against him for his unauthorised absence for such a long duration of time. It appears that the chargesheet could not be personally served on the applicant. It was sent by registered post with the postal endorsement that

the addressee was not available. The departmental enquiry was thereafter held ex parte. The Enquiry Officer found that the alleged misconduct against the applicant was proved. The appeal filed by the applicant was dismissed. The applicant has, therefore, filed this original application for the aforesaid relief.

3. Mr G.K. Bhattacharyya, learned counsel for the applicant, tried to impress upon us that due to his mental imbalance, the applicant could not attend his duties during the period from 18.6.1988 to 7.12.1994. He further tried to attack the ex parte departmental enquiry held by the Enquiry Officer. Ultimately, it was submitted that the applicant's appeal was dismissed mechanically without disclosing reasons for rejection.

4. We do not wish to express any opinion on the various grounds urged before us by the learned counsel for the applicant, because we feel that the matter requires to be sent back to the Appellate Authority with a direction to decide the appeal of the applicant afresh by a reasoned order. The impugned appellate order dated 19.11.1996, Annexure XII, reads as follows:

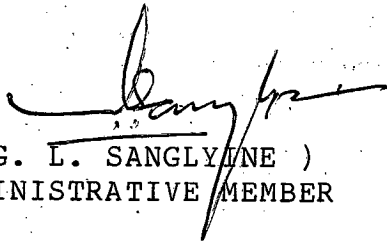
"Your appeal dt 19.08.96 was put up to. DRM, Appellate authority who has rejected the same."

5. Reasons for rejection of the appeal have not been given by the authority who communicated the appellate order to the applicant. The Appellate Authority was expected, at least, to discuss the points raised before it and to come to its findings on that. Since it has not been done the impugned appellate order alone deserves to be quashed with a direction to the Appellate Authority to decide the appeal afresh after giving reasons either for allowing or rejecting the appeal.

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6. In the result this original application partly succeeds and it is hereby partly allowed. Only the appellate order dated 19.11.1996, Annexure XII, is hereby quashed and the Appellate Authority is directed to decide the appeal of the applicant afresh by a reasoned order within a period of two months of receipt of a copy of this order.

7. No costs.



(G. L. SANGLYNE)
ADMINISTRATIVE MEMBER



((K. M. AGARWAL))
CHAIRMAN

nkml