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CENTRAL ADMINISTRATIVE TRIBUNAL,
JABALPUR BENCH,
JABALPUR

Original Application No. 870 of 2005

Jabalpur, this the 22nd day of September, 2006

Hon'ble Dr. G.C. Srivastava, Vice Chairman
Hon'ble Mr. A.K. Gaur, Judicial Member

N. Srinivasa Rao,
S/o. Late Shri N. Appa Rao,
Aged about 35 years,
Employed as Jr. Stenographer,
Under ADRM/SEC Rly./Raipur,
Residing at : C/o. 299/2, Type-II,
RVH Colony, Raipur – 492001,
Tehsil and District : Raipur (CG).

Applicant

(By Advocate – Shri B.P. Rao)

V e r s u s

1. Union of India,
The General Manager,
South Eastern Central Railway,
G.M. Office, Bilaspur,
Distt : Bilaspur (CG).

2. The Chief Engineer (Construction),
South East Central Railway,
Bilaspur Division, Bilaspur,
Tehsil & District : Bilaspur (CG).

3. The Deputy Chief Engineer,
(Survey and Constructions),
South East Central Railway,
Raipur Division, Raipur,
Tehsil & District : Raipur (CG).

Respondents

(By Advocate – Shri M.N. Banerjee)

O R D E R (Oral)

By A.K. Gaur, Judicial Member –

By means of this Original Application the applicant has prayed
for the following main relief:

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"8.1 That, the Hon'ble Tribunal be pleased to accept the Application,

8.2 That, the Hon'ble Tribunal be pleased to quash the punishment order dated 10.4.2003 (Annexure A-4) passed by disciplinary authority respondent No. 3, appellate authority order dated 2.6.2003 (Annexure A-8) passed by respondent No. 2 and reviewing authority order dated 26.7.2005 (Annexure A-11) passed by respondent No. 1,

8.3 That, the Hon'ble Authority be pleased to pass another order directing the respondents to restore the applicant's withheld increment with all consequential benefits in the interest of justice."

2. The brief facts in narrow compass are that the applicant was appointed in the Railways on 4.9.1996 as Junior Stenographer. He was transferred to the office of Senior DME, SEC Railway, Raipur and then to the office of Senior DPO, South Eastern Central Railway, Bilaspur. After formation of new zone of the Railways the applicant was posted in the same capacity of Junior Stenographer under the respondent No. 3. The applicant was given minor penalty charge sheet on 14.11.2002 (Annexure A-1). He submitted his explanation dated 14.11.2002 and denied the allegations leveled against him (Annexure A-2). After receiving the explanation of the applicant (Annexure A-2) his immediate officer i.e. respondent No. 3 became annoyed and issued letter dated 22.11.2002 and again letter dated 25.10.2002 and also warned by giving another chance to the applicant to correct himself. It is submitted on behalf of the applicant that after lapse of about 5 months, the respondent No. 3 who was highly biased and prejudiced with the applicant imposed the penalty of stoppage of one ~~year~~ increment for one year without cumulative effect vide order dated 10.4.2003. An appeal against the aforesaid punishment/warning letters was preferred before respondent No. 2 i.e. Chief Engineer (Construction), SEC Railway, Bilaspur on 15.4.2003 followed by reminder on 10.5.2003. It is vehemently argued on behalf of the applicant that the respondent No. 2 did not consider the applicant's appeal and passed the order dated 2.6.2003 without applying its mind

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(Annexure A-8). Against the order dated 2.6.2003 the applicant preferred a review petition on 30.6.2003 to the General Manager, SEC Railway, Bilaspur (Annexure A-9). When the respondent No. 1 did not pay any heed to the said review petition, the applicant was compelled to file an application before this Tribunal vide OA No. 449 of 2005 which was disposed of vide order dated 12.5.2005 directing the respondents to dispose of the applicant's review petition within a period of three months (Annexure A-10). The said review application was also dismissed by the General Manager, SEC Railway, Bilaspur vide order dated 26.7.2005 (Annexure A-11).

3. On the other hand the respondents have filed their composite reply. Nothing substantial has been submitted by them in their reply. Even the basic facts have not been controverted and denied. In paragraph 4.9 it has been specifically stated by the applicant that the appellate authority has not considered the applicant's appeal and confirmed the ^{order of} punishment arbitrarily. In reply to the said paragraph the respondents have merely stated that the appellate authority has confirmed the punishment order after duly considering the contents of appeal judiciously.

4. We have heard Shri B.P. Rao, learned counsel for the applicant and Shri M.N. Banerjee, learned standing counsel for the respondents.

5. The sole point raised before us by the learned counsel for the applicant is that the order passed by the disciplinary authority as well as the appellate authority is not reasoned and the appellate authority without considering the various pleas taken in the appeal has rejected the departmental appeal by a non-speaking and cryptic order.

6. Having heard learned counsel for the parties and without going into other issues, we are of the considered view that the order imposing the punishment is not sustainable. It may also be observed that the punishment awarded by the disciplinary authority is not sustainable in law on the ground that the disciplinary authority and the appellate

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authority have not recorded any reason in support of their findings. The Hon'ble Supreme Court in the case of State of Bihar & Ors. Vs. Lakshmi Shankar Prasad – 2003 SCC (L&S) 716 has held that the order of disciplinary authority deserves to be set aside being non-reasoned. In a latest decision of the Hon'ble Supreme Court reported in 2006 SCC (L&S) 679 - Raj Kumar Mehrotra Vs. State of Bihar & Ors., the Hon'ble Supreme Court has clearly held that even in case of minor punishment unless the representation made pursuant to the show cause notice has been taken into consideration before the order is passed, the order of punishment could not be sustainable. In the present case, there is nothing on record to show that any of the several issues raised by the applicant in his appeal has at all been considered by the competent authority. No reasons have been recorded for holding that the charges were proved except for the ipse dixit of the disciplinary authoirity. Further in 2006 (6) Scale 358 – Director (Marketing) Indian Oil Corporation Ltd. & Anr. Vs. Santosh Kumar, the Hon'ble Supreme Court has held that a perusal of the order passed by the appellate authority would only reveal the total non-application of mind by the appellate authority. We, therefore, have no other option, except to set aside the same.

7. In view of the discussion made above, we feel that the orders of the disciplinary authority, appellate authority and reviewing authority deserves to be quashed and set aside. Accordingly, we quash and set aside the orders passed by the disciplinary authority dated 10.4.2003 (Annexure A-4), appellate authority dated 2.6.2003 (Annexure A-8) and reviewing authority dated 26.7.2005 (Annexure A-11) and remit the matter for fresh disposal to the disciplinary authority and the disciplinary authority after considering the matter on merits shall pass an order, within a period of three months from the date of receipt of a copy of this order. No order as to costs.

A. K. Gaur
(A. K. Gaur)
Judicial Member

G.C. Srivastava
(Dr. G.C. Srivastava)
Vice Chairman

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