

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 209/2002

Jabalpur, this the 25th day of June, 2004

Hon'ble Shri M. P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Member (J)

Prem Chand Gupta, aged about 43 yrs.
S/o Shri Hari Prasad Gupta,
R/o C/o Shri Kailash Aggarwal,
"Radharani Kirana Stores",
5th Lane, Itarsi, Distt. Hoshangabad (MP). ...Applicant.

(By Advocate: Shri L.S. Rajput)

-versus-

1. The Union of India through
General Manager,
Central Railway,
Mumbai (CST)
Maharashtra.
2. The Divisional Railway Manager,
Central Railway, Habibganj,
Bhopal (MP). ...Respondents

(By Advocate: Shri N.S. Ruprah)

ORDER (ORAL)

By Madan Mohan, Judicial Member -

By filing this O.A., the applicant has sought for
the following main reliefs:-

- i) quash the punishment orders Annexures A-1, A-2, A-3 and A-4 being non-est and ab-initio void.
- ii) direct the respondents to restore the pay of the applicant at Rs. 7500/- as if no punishment was imposed with all consequential benefits including arrears.
2. The brief facts of the case are that the applicant was working as Section Engineer (OHE)(TRD) Grade Rs. 6500-10500 (RSRP) at the relevant time in Bina-Depot of Central Railway Bhopal-Division with headquarter at Bina. A minor penalty chargesheet dated 13.10.1999 (A/1) was served to the applicant with no specific charge against him. The applicant was unable to understand the charge, being vague, because

no documents were annexed nor any particular instance of any misconduct was shown in the chargesheet. However, to prove innocence the applicant denied the charge and requested for documents and details vide his reply dated 15.11.1999 (A/5). The disciplinary authority treated the preliminary representation as the written statement of defence of the chargesheet which was in fact for seeking clarity of charge and relevant documents, if any, in order to defend the case properly. But without application of mind and without passing any reasoned and speaking order the disciplinary authority imposed the punishment vide impugned order dated 20.1.2000 (A/2). Applicant preferred an appeal against the order of the disciplinary authority the same was rejected by the appellate authority vide its order dated 5.6.2000 on some extraneous consideration and without application of mind. The order is non-speaking and against the rules of natural justice. The applicant also filed a revision petition before the revisional authority in accordance with rules. The revisional authority did not consider the revision petition on merits but only disposed it of by a non-speaking and non-reasoned order dated 28.5.2001 (A/4). Hence, this O.A. has been filed by the applicant seeking the aforesaid reliefs.

3. Heard the learned counsel for the parties.
4. It is argued on behalf of the applicant that the charge levelled against the applicant is very vague as it simply discloses that the applicant is not devoted to his duties and rather performs his duties with delay and negligently he does not have the knowledge of even various proforma required for performance of the duty nor he ever tried to know those proforma. There are several other works towards which the applicant is negligent. But in the said charge, no specific act of the applicant is mentioned while the applicant requested to furnish the details vide Annexure A-5 dated 15.11.1999 in which it is clearly mentioned that he has not been provided with the documents in order to submit his proper



reply. Moreover, in absence of any specific charge, the applicant was unable to submit his reply. But the preliminary representation of the applicant was treated to be the written statement by the disciplinary authority and the said authority passed the impugned order. The appellate authority and the revisional authority also did not apply their mind while rejecting the appeal and revision petition filed by the applicant. Hence, the impugned orders passed by the above authorities are non-speaking and are liable to be quashed and set aside.

5. Learned counsel for the respondents argued that proper opportunity of hearing was given to the applicant. There was no relevancy to furnish any document to the applicant as demanded by him and the orders passed by the disciplinary authority, appellate authority and the revisional authority are in accordance with rules and law and are speaking orders. It is further argued that no illegality or irregularity has been committed by the respondent while passing the aforesaid impugned orders.

6. After hearing the learned counsel for both the parties and perusing the record carefully, we find that the charge levelled against the applicant is apparently vague as it does not speak about any specific charge against the working/ conduct of the applicant, so that he may come to know about his negligence or lack of devotion to his duties. It is further observed that no documents were furnished to the applicant and in absence of which it was not possible for the applicant to file his defence reply. But instead of furnishing the documents as required by the applicant dated 15.11.1999, the disciplinary authority considering the above letter of the applicant as reply, passed the impugned order of punishment which is legally not proper. We have also perused the impugned orders passed by the appellate authority and the revisional authority and observed that both these orders are non-speaking orders and have been passed without application of mind.

violating the prescribed procedure as mentioned in the Railway Servants (Disciplinary & Appeal) Rules, 1968. Hence, the orders passed by the authorities concerned are not sustainable in the eyes of law.

7. In the facts and circumstances of the case and in the light of the observations made above, we allow the O.A. and the impugned orders passed by the disciplinary authority appellate authority and revisional authority passed on 20th January, 2000 (A/2); 5.6.2000 (R/3) and 13.4.2001 (A/4) are quashed and set aside. However, the respondents are at liberty to proceed with the departmental proceedings in accordance with rules and law against the applicant on any specific charge levelled against him at the relevant point of time giving opportunity to the applicant. No costs.


(Madan Mohan)
Member (Judicial)


(M.P. Singh)
Vice Chairman

| NA |

पृष्ठांकन सं. ओ/न्या.....जबलपुर, दि.....

प्रतिलिपि दाये दिनः—

(1) संहिक, उच्च न्यायालय वार एवं न्यायिक एवं न्यायालय
(2) ग्रामेश्वर श्री/श्रीमती/च्छु..... के काउंसल
(3) प्रत्यक्षी श्री/श्रीमती/च्छु..... के काउंसल
(4) व्यापार विभाग, जहानपुर न्यायिक सूचना एवं आवश्यक कार्यकारी हेतु

L.S Raypuri
N.S Raypuri

उप रजिस्टर 19-7-04

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