

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR**

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ORDER SHEET

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**ORDERS OF THE TRIBUNAL**

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20.11.2008

OA No.40/2007

Mr. Shiv Kumar, counsel for the applicant  
Mr. Hawa Singh, counsel for respondents

Heard the learned counsel for the parties. For  
the reasons dictated separately, the OA stands  
disposed of.



(M.L. CHAUHAN)  
Judl. Member

R/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

JAIPUR, this the 20<sup>th</sup> day of November, 2008

ORIGINAL APPLICATION No.40/2007

CORAM:

HON'BLE MR.M.L.CHAUHAN, MEMBER (JUDICIAL)

Yunus Khan  
s/o Shri Alladeen,  
r/o Kosi Kala,  
Meena Nagar Colony,  
Near Railway Station,  
Bharatpur, at present employed  
on the post of DC Gangman  
under CPWI, Bharatpur,  
Central Western Railway, Kota Division,  
Kota

.. Applicant

(By Advocate: Shri Shiv Kumar)

Versus

1. Union of India,  
through General Manager,  
Western Central Railway,  
Jabalpur.
2. Senior Section Engineer (P Way),  
Western Central Railway,  
Bharatpur, Kota Division,  
Bharatpur.
3. Assistant Divisional Engineer,  
Western Central Railway, Bharatpur,  
Kota Division,  
Bharatpur.

... Respondents

(By Advocate: Shri Hawa Singh)

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**O R D E R (ORAL)**

The grievance of the applicant in this case is regarding imposition of penalty by the disciplinary authority vide order dated 26.6.2007 whereby pay of the applicant has been reduced by two stage for one year without cumulative effect from Rs. 2910/- to Rs. 2780/-. This order has further been affirmed by the appellate authority vide order dated 19.12.2006 (Ann.A7).

2. The learned counsel for the applicant while drawing my attention to these orders has submitted that this being a case of minor penalty where under rules no enquiry is contemplated and it was incumbent upon the disciplinary authority to pass a reasoned and speaking order before imposing the penalty. The learned counsel for the applicant <sup>who has</sup> further drawn my attention to Ann.A3, representation filed by the applicant against the minor penalty chargesheet and argued that as can be seen from Para 1 of grounds of representation, the case of the applicant was that he was not absent from duty w.e.f. 10.12.05 to 31.03.2006 but he was prevented from joining the duty, as on 31.10.2005 the train has hit drill machine and during course of enquiry he has made statement against his superior officer. Thus, this was the reason that the applicant was not permitted to join duty by the respondents. This specific defence taken by the

applicant has not been discussed at all by the disciplinary authority. Even the appellate authority has not given any reason as to why the version of the applicant cannot be accepted.

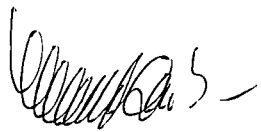
3. I have heard the learned counsel for the parties. I am of the firm view that the procedure adopted by the disciplinary authority and appellate authority while passing the impugned order imposing penalty without giving any reason is contrary to the Railway Board circular No. E(D&A) 86 RG 6-12 of 17.2.86 SC 29/86 whereby it has been stated that where no enquiry has been held, the disciplinary authority while passing orders should give brief reasons for the final decision regarding the guilt of the employee. In this case, even the appellate authority has not given any reason why the version of the applicant cannot be accepted.

4. The learned counsel for the applicant has also drawn my attention to the Railway Board Circular No. 255/04 whereby amendment has been made in Rule 6(iii) (b) and penalty of reduction to a lower stage of pay by one stage for a period not exceeding three years without cumulative effect can be imposed instead of reduction to a lower stage in time scale of pay by two stages as has been done in the instant case. Thus, the learned counsel for the applicant submits that this order is required to be interfered with on this ground

alone. I find substance in the submissions made by the learned counsel for the applicant.

5. Thus, in view of what has been stated above, the OA is allowed. The impugned orders dated 26.7.2006 (Ann.A2) and order dated 19.12.2006 (Ann.A7) are quashed and set-aside. It will be permissible for the respondents to proceed further in the matter as per rules taking into consideration the grounds taken by the applicant in his representation Ann.A3 and pass reasoned and speaking order.

6. With these observations, the OA stands disposed of with no order as to costs.



(M.L. CHAUHAN)  
Judl. Member

R/