

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI...5

ORIGINAL APPLICATION NO. 143/94

MISC PETITION NO. (IN O.A.)

REVIEW APPLI. NO. (IN O.A.)

CONT. PETITION NO. (IN O.A.)

Shri D.K. Dutta.....APPLICANT(S)

Vrs.

Mr. J.L. Sarkar.....RESPONDENT(S)

Mr. J.L. Sarkar.....ADVOCATE T(S)  
FOR APPL.

Mr. M. Chandra.....

Mr. A. Deb Roy.....

Mr. ....ADVOCATE(S)  
FOR RESPDTS.

OFFICE NOTE

DATE

COURT'S ORDER

29.7.94

Heard learned counsel Mr J.L.Sarkar on behalf of applicant Shri D.K.Dutta. Perused the statements of grievances and reliefs sought for in this application.

This application is admitted. Issue notice on the respondents under Registered Post. Copy of the application has been served on Railway counsel Mr B.K.Sharma and he is allowed six weeks time to file counter

List on 26.9.1994 for counter and further orders.

This application is in form and within time.

C. E. of Rs. 50/- deposited with

JPJ RD No. 00728

Dated 20/7/94

By Registrar (4)

23-9-94

Requisite has been

Adm to day.

Dr-

Pg

26.9.94

Mr J.L.Sarkar and Mr B.K.Sharma . At the request of Mr Sharma time to file written statement extended till 4.11.1994. Adjourned to 4.11.1994.

Vice-Chairman

Member

Vice-Chairman

Member

Requisite copies are sent on 26.9.94 & sent v.no. 6028-28 dt. 24.9.94

2-11-94

Counter has not been filed by the respdts.

Pg

4.11.94 Adjourned to 24.1.1995. Meanwhile liberty to file counter.

Vice-Chairman

Member

pg

24.1.95

To be listed for hearing on 30.3.95.

Vice-Chairman

Member

pg

19.5.95

Leave note of Mr B.K.Sharma.  
Adjourned to 13.7.1995.

Member

Vice-Chairman

pg

13.2.95

For hearing on 19.9.95.

N

Notice duly served on R. No. 2, 3 & 4.

23-1-95

Counter has not been filed.

Dem

29-3-95

Counter has not been filed.

2) Service Reports are awaited.

30.3.95

For hearing 19.5.95

By order

1) Counter has not been filed.  
2) Service Reports are still awaited.

19/5/95 1) Counter has not been filed.  
2) Service Reports are still awaited.

QA/LA/CP/PA/MP No. 143 of 1994

OFFICE NOTE

DATE

ORDER

Service Reports  
are still awaited.

W/ statement - has not  
been filed.

19.9.95

19.9.95

RFH on 28.11.95

By order

Counter has not been  
filed.

28.11.95

28.11.95

Agreed to  
19.1.96.

By order

19.1.96

To be listed for  
hearing on 12.2.96.

By order

Notice duly served  
on Respondents No. 2, 3 & 4

Counter has not been  
filed.

12.2.96

To be listed for  
hearing on 20.3.96

By order  
Bon

20.3.96

Mr M.Chanda for the applicant.  
List for hearing on 20.5.1996.

Member

pg

5-7-96

None present. Written statement  
has not been submitted. List for  
hearing on 1-8-96.

pg

1-8-96

Learned counsel Mr.M.Chanda for  
the applicant. List on 28-8-96 for hearing

Member

lm

28.8.96

None present. Written statement has not  
been submitted.

List for hearing on 24.9.96. In the meantime  
the respondents may submit written statement.

Member

trd

24.9.96

None present. Written statement has not  
been submitted.

List for hearing on 12.11.96. In the meantime  
the respondents may file written statement.

Member

nkm

24/9

2

(4)

20.5.96

To be listed for

hearing 5.7.96.

By order

Notices duly served  
on respondents no, 2, 3 & 4.

W/statement has not  
been filed.

5/7  
4/7

W/statement has not been  
filed.

5/7  
3/7

W/statement has not been  
filed.

5/7  
27/8

Communicate in  
both side.

28/8

W/statement has not  
been filed.

5/7  
23/9

W/statement has not been  
filed.

(5)  
O.A. 143/94

12.11.96

None present. List for hearing on 10.12.96.

*be*  
Member

pg

*W*  
12/11

10.12.96

Mr. M.Chanda for the applicant.

Mr. B.K.Sharma for the respondents.

Written statement has not been submitted.

List for hearing on 2.1.1997. In the meantime the respondents may submit written statement with copy to the counsel of the applicant.

*be*  
Member

trd

2.1.97

None present. Written statement has not been submitted. This is a case of 1994 and requires early disposal.

List for hearing on 24.1.97. In the meantime the respondents may submit written statement.

*be*  
Member

nkm

*W*  
2/1

6.2.97

hearing.

Let this case be listed on 20.2.97 for

*be*  
Member

*be*  
Vice-Chairman

trd

*W*  
10/2

*W/Statement has not been  
b.W*

*1/12*

*W/Statement has not been b.W*

*1/97*

*pto*  
5-2-97

*1) Notice duly served  
on Respondant No-  
2, 3 & 4*

*2) written statement  
has not been submitted*

*3)*

19.2.97

*1) NO. memo. of  
appearance has  
been filed.*

*2) Service reports  
are still awaited  
R.I.*

*W*  
19/2

20-2-97

We have heard Mr. M. Chanda for the applicant. None appears for the respondents. No written statement has also been filed by the respondents.

In the Original Application the applicant has challenged the Annexure III order dated ~~14-5-93~~ <sup>14-5-93</sup> ~~14-6-93~~ issued by the Sr. Divisional Operation Manager, N.F. Railway, respondent No. 3 awarding punishment of stoppage of increments for next 6 months when due and also the Annexure V appellate order dated 24-2-93. Facts are: the applicant was an employee under the N.F. Railway. A Memorandum of charges were served on the applicant on the allegation that the applicant refused to carry out the duty as Guard when called upon in consequence whereof the train could not leave in time. He was asked to show cause in writing. Accordingly, on 11-3-93, the applicant submitted his reply against the show cause notice. The Reply was submitted to the authority through the Station Superintendent, New Bongaigaon. As per the provisions of Rules if the explanation, submitted by the delinquent employee, is not satisfactory, a Departmental proceedings is initiated, giving opportunity of hearing and ~~(proceeding to give full opportunity~~ to defend him and thereafter, the disciplinary authority on the basis of the enquiry or on report of the enquiry Officer, shall consider the allegations and the defence taken by the delinquent employee passed appropriate order. The order of the disciplinary authority shall apply its mind and pass a speaking order. If the disciplinary authority finds the delinquent employee guilty may award punishment in accordance with Rule.

*allowing him*

Considering the facts and circumstances of the case if the disciplinary authority find the employee guilty of misconduct

*Mahesh* contd/-

20-2-97

We have heard Mr.M.Chanda for the applicant. None is present for the respondents. Written statement has not yet been filed by the respondents.

In the Original Application the applicant has challenged the Annexure-III order dated 14-5-93 issued by the 14-6-93 Sr.Divisional Operation Manager, N.F. Railway the respondent No.3 awarding punishment by way of stoppage of increments for next 6 months when due and has also challenged Annexure-V appellat order dated 24-2-93. Facts are :

The applicant was an employee under the N.F.Railway. A Memorandum of charges had been served on the applicant on the allegation that the applicant refused to carry out the duty as Guard when called upon and in consequence whereof the train could not leave in time. Applicant was asked to show cause in writing as to why disciplinary action should not be taken against him. Accordingly, on 11-3-93 the applicant submitted his reply to the show cause notice. The reply was submitted to the authority through Station Superintendent, New Bongaigaon. As per rule if the explanation is not satisfactory, a Departmental proceedings is ~~may~~ <sup>to be</sup> initiated giving full opportunity to the delinquent employee to defend his/her case. Thereafter, disciplinary authority on the basis of the enquiry report of the Enquiry Officer shall take a decision after considering the entire matter and thereafter pass appropriate order. The disciplinary authority should apply its mind and pass a speaking order. If the enquiry Officer finds the delinquent employee guilty of charges, and the disciplinary authority agrees to the finding of ~~the~~ this Enquiry Officer the disciplinary

contd/

20-2-97 authority shall award punishment in accordance with the rule.

In the present case we are surprised to see that an exparte order was passed by the disciplinary authority after inordinate delay. The disciplinary authority did not make any endeavour to examine the correctness of the allegations. Besides the appellate authority also passed the impugned order without giving any reason. The appellate authority simply agreed with the disciplinary authority without recording any reason. Therefore, this cannot be said to be an appellate order.

In view of the above we are of the opinion that the Annexure III & V cannot sustain in law. Accordingly, we set aside the order.

Member

Vice-Chairman

Please compare  
order dated 20.2.97.

8/5/97.

13.5.97

lm  
8/5

copy of the order

has been sent to the  
D/Action for issuing  
the same to the party.

vide No. 1733 to 1738

dt. 15/5/97