

**Central Administrative Tribunal
Principal Bench, New Delhi.**

**RA-229/2015
MA-2894/2015
MA-2895/2015 in
OA-4371/2013**

Reserved on : 29.02.2016.

Pronounced on : 04.03.2016.

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. Shekhar Agarwal, Member (A)**

Union of India, through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi-110001.
2. Divisional Railway Manager,
DRM Office,
Northern Railway,
New Delhi.
3. Sr. Divisional Commercial Manager,
DRM Office,
Northern Railway,
New Delhi.

.... Review Applicants

(through Sh. A.K. Shrivastava, Advocate)

Versus

Sh. Dalip Singh,
Chief Ticket Inspector,
Sakur Basti,
Northern Railway,
Delhi.

.... Respondent

(through Sh. Shanker Divati, Advocate)

O R D E R

Mr. Shekhar Agarwal, Member (A)

The review applicants have filed MA-2894/2015 for condonation of delay of 60 days in filing the review application. For the reasons stated therein, the same is allowed.

2. This review application has been filed by OA respondents for review of our order dated 28.01.2015 by which the OA was allowed. The operative part of the order reads as follows:-

"12. In the above facts and circumstances of the case, we allow this "OA and quash and set aside the impugned order dated 13.10.2010 issued by the Disciplinary Authority dated 07.12.2011, Appellate Authority dated 06.07.2010 and the Revisionary Authority dated 06.09.2013. The aforesaid direction shall be complied with, within a period of 2 months from the date of receipt of a copy of this order by issuing suitable orders. We also direct that if the Applicant was deprived of any service benefits due to the pendency of the aforesaid proceedings, they shall also be restored to him within the aforesaid period of time. Even though this is a fit case for imposing exemplary cost on the Respondents, since the learned counsel for the Applicant has not pressed for the same during the arguments, we refrain from doing so."

3. The OA applicant (respondent in RA) has filed counter opposing the review application.

4. We have heard both sides and have perused the material on record. Learned counsel for the review applicants stated that since the disciplinary proceedings against the OA applicant were quashed on the ground of procedural flaw, liberty should have been given to the OA respondents to proceed afresh against the applicant from the stage from which procedural flaw occurred. He stated that this Tribunal has committed an error apparent on the face of the record by not giving liberty as aforesaid. Other than this, no other ground was pressed by the review applicants.

5. On perusal of the record, we find that in this case an enquiry had been held against the OA applicant on two articles of charge. The enquiry officer had found both articles of charge to have not been proved. The disciplinary authority had, however, made available a copy of the enquiry report to the applicant and asked him to submit a representation on the same. After considering his representation, the disciplinary authority had imposed punishment of reduction in pay of the applicant. His appeal and revision were

thereafter rejected by the appellate authority as well as revisionary authority holding that no disagreement note had been issued in this case and the disciplinary authority had imposed punishment on the basis of an enquiry report in which no charges had been proved against the applicant. We had quashed the proceedings. However, there is merit in the contention of the review applicants that liberty should have been given to the respondents in OA to proceed afresh against the applicant by making available a copy of the disagreement note together with tentative reasons for disagreement as well as a copy of the enquiry report and giving him an opportunity to make a representation against the same. Since this escaped our attention, an error apparent on the face of the record has crept into our judgment. We, therefore, dispose of this review application by modifying para-12 of our judgment dated 28.01.2015 quoted above to the extent that at the end of it, the following sentence may be added:-

“The respondents shall, however, be at liberty, if so advised to proceed against the applicant afresh by making available a copy of disagreement note, if any, along with tentative reasons for disagreement and a copy of the enquiry report and affording an opportunity to the applicant to represent against the same.”

6. Registry is directed to carry out amendment in our order as aforesaid.

(Shekhar Agarwal)
Member (A)

(V. Ajay Kumar)
Member (J)

/Vinita/