

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

OA No. 3949/2015
MA No. 3610/2015
MA No. 3611/2015

This the 13thday of November, 2018

**Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)**

Inderjeet
Aged-53 years
S/o Shri Lakhi
Working as Helper Khallasi
Northern Railway Station, PSI, Narela
R/o Village Kharwal, Tesh. Sampla
Distt.Rohtak (Har.)

....Applicant

(By Advocate : Mr. Yogesh Sharma)

Versus

1. Union of India through the General Manager
Northern Railway, Baroda House, New Delhi.
2. The Addl. Divisional Railway Manager(OP)
Northern Railway, Delhi Division
State Entry Road, New Delhi.
3. The Sr. Divisional Electric Engineer/TRD
Northern Railway, Delhi Division
State Entry Road, New Delhi.
4. The Assistant Electric Engineer/TRD
Northern Railway, Delhi Division
State Entry Road, New Delhi.

(By Advocate : Mr. Kripa Shankar Prasad)

...Respondents

ORDER (ORAL)

Ms. Nita Chowdhury:

This OA has been filed by the applicant seeking following reliefs:-

“(i) That the Hon'ble Tribunal may graciously be pleased to pass an order of quashing the penalty order dated 27.11.2013 (Annex.A/1), Appellate Authority order dated 21.4.14 (Annex.A/2), Revisional Authority order dated 7.8.14 (Annex.A/3), Charge Sheet dated 12.4.12, (Annex.A/6), IO

Report dt.18.10.2013 (Annex.A/9) and entire inquiry proceedings, declaring to the effect the same are illegal, arbitrary, against the rules and against the principle of natural justice and consequently pass an order directing the respondents to grant all the consequential benefits to the applicant including the arrears of difference of pay and allowances with interest deeming no charge sheet was imposed to the applicant.

- (ii) That the Hon'ble Tribunal may graciously be pleased to pass an order directing the respondents to treat the entire intervening period as on duty for all the purposes.
- (iii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicants along with the costs of litigation.

2. After hearing detailed arguments from the applicant, he draws our attention to Rule 22 (v) of the Railway Servants (Discipline & Appeal) Rules, 1968 wherein following provisions have been laid down:

“(v) no order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity, as far as may be, in accordance with the provision of Rule 11, of making a representation against such enhanced penalty.”

3. The applicant is able to show that order of enhancement/a different order from that of the enquiry officer was imposed on him but he was not given a reasonable opportunity to represent against the same before finalising it. Hence, this is in violation of the Railway Servants (Discipline & Appeal) Rules, 1968.

4. Learned counsel for respondents points out that the original punishment proposed by the disciplinary authority was later on enhanced to that of dismissal by the subsequent authority vide order dated 25.04.2014 and later stood reduced in response to the representation given by applicant to the DRM. Hence, his representation given against the order imposed by the Senior DEE should be considered as representation against enhanced penalty. This

reasoning of the respondents is not correct. While, it is true that the order of the Senior DEE has been revised and reduced by the DRM but the same has been done on the representation given against the Senior DEE's order. It was ordered to the ADRM/OP, DRM to revise the same but the applicant needed to be given a fresh opportunity to represent against the proposed punishment as even this punishment differed from original proposal of the enquiry officer. However, we find that the final order has been passed without any such opportunity being given to the applicant.

5. Accordingly, the order dated 07.08.2014 is set aside and the respondents are directed to give an opportunity to the applicant to represent against the proposed revised order of punishment and he is given one month to represent against the same. On receipt of the representation, the respondents shall pass a fresh speaking order after taking into consideration the facts stated therein.

6. With the above observations, the respondents are directed to finalise the proceedings within a period of 90 days from the date of issue of the order. With the above directions, the OA is disposed of. No costs.

(S.N. Terdal)
Member (J)

/anjali/

(Nita Chowdhury)
Member (A)