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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 320/2003

New Delhi this the 10th day of November, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri S.A. Singh, Member (A)

Shri Hardayal Singh,
S/O Shri Joginder Singh,
R/O 28/122, Kasturba Nagar,
Shahdara, Delhi-110032
working as Junior Engineer
Grade II Under Shatabadi (Elect.),
New Delhi under Respondent No.3

...Applicant

(By Advocate Shri Vijay Pandita)

VERSUS

Union of India through

1. The General Manager,
Northern Railway, Baroda
House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway, State Entry
Road, New Delhi.
3. Senior Divisional Elect. Engineer
(CHG), Northern Railway,
Divisional Office, New Delhi.

...Respondents

(By Advocate Shri R.L. Dhawan,
learned counsel through proxy counsel
Shri R.K. Sarkar)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J))

The applicant has impugned the minor penalty orders issued by the respondents i.e. the disciplinary authority's order dated 24.6.2002 and the appellate authority's order dated 9.12.2001 (sic.) which date appears to be a mistake as the applicant himself has submitted his appeal/review against the disciplinary authority's order only on 21.8.2002). In the circumstances, the appellate authority's order apparently is dated 9.12.2002, instead of

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the year 2001. It is also relevant to note that at the bottom of Annexure A-1 order annexed by the applicant to OA. various officers have signed on 9/12. 11/12 and 13.12.02.

2. One of the main grounds taken by the learned counsel for the applicant is that the aforesaid orders issued by the disciplinary authority and the appellate authority are cryptic, non-speaking and unreasoned orders. He has also submitted that no enquiry has been held. including the issuance of show cause notice to the applicant to represent his case which is. therefore. against the principles of natural justice. Learned counsel has relied on the judgements of the Hon'ble Supreme Court in **Bhagwan Shukla Vs. Union of India and Ors** (JT 1994(5)SC 253) and **H.L.Trehan and Others Vs. Union of India and Ors.** (AIR 1989 SC 568). He has also relied on certain orders/instructions issued by the Railway Board referred to in his written submissions.

3. We have considered the reply filed by the respondents and the relevant documents on record.

4. In the Memorandum issued by the respondents dated 29.3.2001, it is clearly mentiond that the applicant has been given an oppotunity to make such representation as he may wish to make against the proposal i.e. for imposition of minor penalty against him. The respondents have also stated in para 4.4 of the reply affidavit that

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the disciplinary authority has carefully considered the records of the case and passed a detailed and reasoned order which is reproduced below:-

"Gone through the case carefully. The charges are self explanatory. The act by C.O. was a case of total carelessness. He could not act as per the requirement of situation. He had sent the Store Keeper to check the train this had resulted in non-issuing of material for the coach. His action of unbecoming of a supervisor.

Therefore, I find him guilty of charges and thus I am in view of imposing a penalty of reducing his pay to the lowest stage in his time scale for a period of three years only".

5. We have also perused page 15 of the paper book annexed by the applicant, which gives the details of the charges levelled against him. It is relevant to note that in the rejoinder filed by the applicant to the reply given by the respondents in Para 4.4 while he has stated that as per the statutory instructions of the Railway Board, the disciplinary authority has imposed the penalty without giving reasons holding the applicant guilty of the charge but he has not denied the receipt of the aforesaid reasoning of the disciplinary authority. In the facts and circumstances of the case, we are unable to agree with the contentions of the learned counsel for the applicant that the reasoning given by the disciplinary authority in his order for imposition of minor penalty of reduction of pay for a period of three years is not a speaking order. A perusal of the reasons given by the disciplinary authority's order shows that he has applied his mind and has given a speaking order while finding the applicant guilty of the charges levelled against him.

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6. The applicant has annexed Annexure A/3 requesting for review of the penalty i.e. the disciplinary authority's order dated 24.6.2002. He has referred to the relevant facts regarding arrival of the train and its departure etc. It is relevant to mention that he has himself stated that he has not given any defence previously, as mentioned in Form No.6 i.e. Annexure A-1 collectively, although as noted above, he has been given an opportunity to make any representation against the proposed action to be taken by the respondents under Rule 11 of the Railway Servants (Discipline and Appeal) Rules, 1968(hereinafter referred to as 'the Rules'). In the facts and circumstances of the case we are, therefore, unable to agree with the contentions of the learned counsel for the applicant that he has been imposed a minor penalty without even giving him any show cause notice or a reasonable opportunity to make any representation, if he chose to do. It is seen from the relevant documents filed by the applicant himself that although he was given an opportunity to make a representation against the proposed action, by the respondents under the provisions of the Rules, he has chosen not to give any representation and had done so, only when he requested for review of the penalty orders imposed by the disciplinary authority vide his representation dated 21.8.2002. In this view of the matter, we are again unable to agree with his contention that there is any violation of the principles of natural justice on the part of the respondents.

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7. It is also relevant to note that the applicant has not made any submissions to the respondents in his representation dated 21.8.2002 that he should be given a personal hearing by the appellate authority. This has also been referred to by the respondents in their reply. Therefore, in the facts and circumstances of the case, the contention of the learned counsel for the applicant that as he was not given a personal hearing, the impugned orders should be set aside also fails and is rejected as no prejudice has been caused to him.

8. A perusal of the appellate authority's order shows that he had applied his mind to the facts of the case as well as the punishment order imposed on the applicant by the disciplinary authority.. He has also reduced the punishment of reduction of pay in the same time scale from three years to two years without cumulative effect. This punishment as well as the punishment order imposed by the disciplinary authority amount to a minor penalty under the provisions of Rule 6(iii) (b) of the Rules, for which the procedure adopted by the respondents cannot be faulted.

9. In the circumstances of the case, the judgements relied upon by the learned counsel for the applicant are not applicable to the facts here. Although the respondents have indeed given a show cause notice to the applicant, for reasons best known to the applicant, he has not availed of it before the disciplinary authority had passed the penalty order. This is clearly stated by the applicant himself in

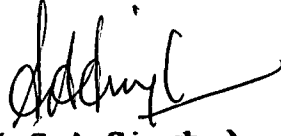
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his representation dated 21.8.2002. A perusal of the appellate authority's order also shows that in the circumstances of the case, the contention of the learned counsel for the applicant that his order is not a speaking order also fails and is rejected.

10. In the result, for the reasons given above, we find no justification to interfere in the matter. It cannot be held that the penalty orders issued by the respondents are either contrary to the provisions of the Railway Servants (Discipline and Appeal) Rules, 1968 or Railway Board's Instructions dated 17.2.1986 or the principles of natural justice to warrant setting them ¹⁸ aside. Accordingly OA fails and is dismissed. No order as to costs.


(S.A. Singh)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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