

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No.2811/2003

This the 29th day of July, 2004

HON'BLE SHRI V.K. MAJOTRA, VICE-CHAIRMAN (A)
HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Mahesh Chander Singh S/O Name Singh,
working as Sr. Goods Clerk,
Northern Railway, Kishanganj,
Delhi-110007.

... Applicant

(Shri S.K.Sawhney, Advocate)

-Versus-

1. Union of India through
General Manager, Northern Railway,
Baroda House, New Delhi.

2. Chief Traffic Manager,
Northern Railway, DRM Office,
Chelmsford Road, New Delhi.

3. Sr. Divisional Commercial Manager,
Northern Railway, DRM Office,
Chelmsford Road, New Delhi.

4. Divisional Commercial Manager,
Northern Railway, DRM Office,
Chelmsford Road,
New Delhi.

... Respondents

(By Shri V.S.R.Krishna, Advocate)

ORDER (ORAL)

Hon'ble Shri V.K. Majotra, Vice-Chairman (A)

Respondents had been given several opportunities to file counter reply in this OA. On 18.5.2004, they were afforded last opportunity clarifying that if counter was not filed within the stipulated period, pleadings shall be deemed to complete. Counter reply has not been filed till today. However, the learned counsel of respondents was given an opportunity of submitting his arguments.

2. Applicant has challenged penalty of reduction in pay from the stage of Rs.4900/- to Rs.4600/- in the

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grade Rs.4000-6000 for a period of three years with cumulative effect in disciplinary proceedings against him (Annexure A-1 dated 12.9.2000).

3. Among other grounds, the learned counsel of the applicant submitted that in the impugned orders, the disciplinary authority had disagreed with the findings of the enquiry officer without affording an opportunity to the applicant to state his case in respect of the reasons for disagreement.

4. Admittedly, the disciplinary authority had not conveyed to the applicant its tentative reasons for disagreeing with the findings of the enquiry officer. No show cause notice in this regard was issued to the applicant and final orders in the shape of the impugned order dated 12.9.2000 were passed by the disciplinary authority.

5. While we are not delving into any other ground taken by the applicant in the OA, in our considered view the impugned orders and the penalty cannot sustain on this sole ground that the disciplinary authority before forming its final opinion had not conveyed to the applicant its tentative reasons for disagreeing with the findings of the enquiry officer and that he was not afforded any opportunity to state his case against such reasons.

6. The law is well settled. The disciplinary authority on receiving the report of the enquiry officer

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may or may not agree with findings recorded by the latter. In case of disagreement, the disciplinary authority has to record reasons for disagreement and convey the same to the charged employee, consider his statement on such reasons and then take a final view in the enquiry. In this regard, we draw support from **Punjab National Bank & Ors. v. Kunj Behari Misra**, 1999 SLJ 271 (SC), and **Yoginath D. Bagde v. State of Maharashtra**, 1999 (7) SCC 739.

7. Having regard to the above discussion, we set aside the impugned penalty with liberty to the disciplinary authority to proceed further, if deemed appropriate, from the stage of submission of the enquiry report to him for further action. Applicant shall have consequential benefits of quashing of the punishment immediately.

8. OA is allowed in the above terms. No costs.

S. Raju
(Shanker Raju)
Member (J)

/as/

V.K. Majotra
(V. K. Majotra)
Vice-Chairman (A)

29.7.04