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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 706/2002

New Delhi, this the 22nd day of October, 2002

Hon'ble Sh. Govindan S.Tampi, Member(A)
Hon'ble Sh. Shanker Raju, Member(J)

Shri B.S.Dhangar,
Ex. Station Superintendent,
Balari, Northern Rly.,
Allahabad Division,

C/o Shri Shyam Singh,
Booking Clerk, Railway Station,
Dadri (U.P.).

.....Applicant

(By Advocate: Ms.Meenu Maine proxy counsel of
Shri B.S.Maine)

Versus

1. The Union of India through
The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Allahabad.
3. The Sr.Divisional Operating Manager,
Northern Railway,
Allahabad.

...Respondents.

(By Advocate: Shri Rajinder Khatter)

O R D E R(ORAL)

By Hon'ble Shri Govindan S. Tampi, Member (A)

Applicant is aggrieved by the order dated 20.10.1999 reducing him by one grade, i.e., from Rs.5500-9000/- to Rs. 5000-8000/- and fixing his pay in the middle of the lower grade, appellate order dated 9.3.2000 and revisionary order dated 9.3.2001.

2. Heard Ms. Meenu Maine, counsel for the applicant and Shri Rajinder Chatter, counsel for the respondents.

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3. The applicant, who was on sick leave from 28.1.1997 to 26.6.1999, was served on 10.6.1999 with a copy of an inquiry report only when he knew that major penalty proceedings have been initiated on him 22.7.1997. The applicant filed representation on 15.7.1997 seeking reopening of the ex-parte D.A.R. proceedings. In between, he had appeared for the interview of successful candidate in the written test for the post of Station Superintendent in the grade of Rs.6500-10500 following which he was informed that he had been reverted to the grade of Rs.5000-8000 making him ineligible for promotion. Though the reduction order was set aside on 2.9.1999 by Chief Operational Manager, his case was not considered for promotion. Inspite of his request for reopening of the D.A.R. proceedings filed on 15.7.1999, Senior Divisional Operating Manager passed the order on 20.10.1999 reducing his grade to Rs.5000-8000/- against the above non-speaking order dated 9.3.2000. His detailed revision application was dismissed on 9.3.2001. Hence this OA.

Grounds raised in this OA are as follows:-

- i) no chargesheet had been served on him as during the said period he was undergoing treatment;
- ii) the applicant had been attending enquiry in another charge at the time;
- iii) enquiry was not conducted properly and his findings were as conjectures;
- iv) disciplinary authority had mechanically passed the orders, instead of reopening the enquiry;
- v) appellate authority's order was non-speaking and
- vi) revision authority's order was arbitrary and mechanical.

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OA in the above circumstances, deserved to succeed, according to the applicant whose case was forcefully argued by Ms. Meenu Mainee.

4. Strongly rebutting the points raised by the applicant and reiterating the pleadings on behalf of the respondents, Shri Rajinder Khatter points out that the applicant has no case. He has asked for setting aside the punishment order as well as for promoting him to the higher grade of Rs.6500-10500/- which involve multiple reliefs and as such cannot be granted. The applicant was unauthorisedly absent from 28.1.1997 to 26.6.1999 during which period a major penalty charge-sheet containing three Articles was issued to him. The same was sought to be served by registered post and also by posting on his last known Railway quarter. After exhausting all the modes of service, the Enquiry Authority proceeded an ex-parte basis as provided under Railway Service(Disciplinary & Appeal) Rules, 1968. Nothing irregular was done and the proceedings were conducted properly and in accordance with law. The applicant was untraceable and the charge-sheet could not be served. The applicant despite having been granted adequate opportunity to attend the inquiry proceedings by repeated communications did not do so and cannot therefore be permitted to take advantage of the situation. Disciplinary authority's order was proper and so was that of the appellate authority. The applicant's request for fresh enquiry proceedings had been correctly rejected by the revisionary authority, who had also issued a detailed and speaking order. In the circumstances that the respondents have catered

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correctly throughout and in accordance with law, there was no case for any interference by the Tribunal in the matter, prays Sh. Khattar. He also produced copies of the communication issued by the respondents from time to time during the enquiry proceedings which were not responded to or acted upon by the applicant.

6. The only highlight of the applicant's rejoinder is that during the period he was described as unauthorizedly absent he was in fact unwell and undergoing treatment as supported by medical certificates and that he was attending enquiry on another charge. Therefore, the respondents charge that he was untraceable was wrong.

7. We have carefully deliberated on the rival contention and considered the facts brought on record. Applicant in this OA has challenged the charge sheet issued to him on 23.7.98, inquiry proceedings initiated and the orders passed imposing penalty on him and upholding them in appeal/revision on the ground that the charge sheet has not been issued to him / served on him and that the orders of the disciplinary authority/appellate authority were non speaking in nature and that the revisionary authority had incorrectly rejected his request for reopening the DAR proceedings. However, the allegations do not merit acceptance. True it is that the charge sheet, was not issued/served on him, but the fact is that the respondents are found to have made all possible efforts to have it served on the applicant but could not succeed, as he was not available at his address. Repeated letters issued intimating the various dates of

enquiry were also unanswered and unattended. That being the case the respondents could not have taken any other step than proceeding with the enquiry and record the findings. On accepting the report, disciplinary authority passed a considered order, imposing the penalty which was upheld, in a short order by the appellate authority. Revisionary authority's order dated 9.3.2001, is detailed, lucid and fully speaking in nature. The said authority had correctly examined the facts of the case and rejected his request for re-opening of the enquiry and upheld the penalty imposed by the disciplinary authority and endorsed by the appellate authority. The applicant has not been able to prove that he presented himself for the instant enquiry at any stage. That being the case all the pleas raised by the applicant are clearly after thought and do not merit acceptance.

8. We also find that in para 4.3 of the OA, the applicant has referred to some order of the Chief Operating Manager dated 29.9.99 and stated that the reduction in grade had been set aside. However, it appears that the said order refers to some other charge and penalty and not the one concerned in the instant O.A. It has therefore no relevance in this matter.

9. In the above view of the matter the OA fails and is accordingly dismissed. No costs.

S. Raju
(Shankar Raju)
Member (J)

(Govindan S. Tampli)
Member (A)

Patwal/