

Central Administrative Tribunal, Principal Bench

O.A. No.209 of 2002

New Delhi this the 22nd day of October, 2002

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. M. P. Singh, Member (A)

Shri Jagpal Singh
S/o Shri Mam Chand
Jararda Nara, Muzaffar Nagar,
Uttar Pradesh. - Applicant
(By Advocate : Mrs. Meenu Mainee for Shri B.S. Mainee)

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. The Senior Divisional Operating Manager,
Northern Railway,
State Entry Road,
New Delhi. - Respondents
(By Advocate : Shri Rajeev Bansal)

ORDER (ORAL)

Mr. Justice V.S. Aggarwal, Chairman:

The article of charge as against the applicant reads as under:-

"The said Shri Jagpal Singh, Pointsman while on duty on 20.11.97 is held responsible for absconding from duty without any permission and manhandling, abusing physically assaulting and beating Shri Parkash Chand, Cabinman with stick with the help of his brother and wife in Rly Colony/JDW + causing inquiry at the backbone and knee of Shri Parkash, thereby causing law and order problem on the station. He thus violated Para 3 (1) (ii) of the Rly. services conduct Rule, 1966."

After the inquiry, the disciplinary authority passed an order of dismissing the applicant from service.

Ag

2. By virtue of the present application, Shri Jagpal Singh assails the order dismissing him from service.

3. Learned counsel for applicant has contended that the disciplinary authority has taken into consideration certain extraneous facts which were not part of the articles of charge. Therefore, the impugned order cannot be sustained.

4. On careful consideration of the said submissions, it must be held what is being said at the bar cannot be ignored. We have already reproduced the articles of charge, which are confined to absconding from duty and, therefore, taking the law into his own hand, but the disciplinary authority has taken into consideration certain other facts which are apparent from the impugned order, which reads as under:-

"On 30.5.99, you were drunk on duty 4. GRP was called and was subjected to medical examination. Next day on 31.5.99, he gave bail. On 1.6.99, you were sent to DRM office and is unauthorized absent since then.

You were transferred to NRW but has not joined as yet.

You frequently create law and order problem in the station and has also physically assaulted, Shri Puran Singh, Cabinman, Naresh, Waterman, besides, Sh. Prakash Chjand, Cabinman. You frequently threatens the staff and has not vacated the quarter. The above mentioned paras show that you are in indisciplined staff and has shown total callousness towards your duty. It is a matter of concern that Govt. jobs are sought after for better security, status etc. and you have not turned up for duty for the last eight

As Ag

months. The conduct clearly shows gross indiscipline and it seems you have got better...."

5. What has been reproduced above clearly shows that the factors of coming in the drunken condition on 30.5.1999 and not joined NRW, frequently creating law and order problem in the station, assaulting certain other persons, frequently threatening the staff have also been taken into account while passing the impugned order. The position in law is well settled that if certain factors have to be taken into consideration they must form the basis of the articles of charge.

6. In the present case, extraneous factors have been taken into consideration. On this short ground, therefore, the impugned order is liable to be quashed. Accordingly, we allow the application and quash the impugned order dated 30.3.2000. We, however, remit the matter to the disciplinary authority, who would pick up the loose threads and may construe the articles of charge and factors, which ~~cannot~~ ^{can} be taken into consideration, and thereafter pass a fresh order.


(M.P. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

/ravi/